AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol.42—No.5
1–7–77

BOOK 1:
PAGES
1451–1740

BOOK 2:
PAGES
1741–2049

federal register

BOOK 1 OF 2 BOOKS
FRIDAY, JANUARY 7, 1977



highlights

PART I:

LEGAL DRAFTING WORKSHOP
OFR announces workshop beginning 1–26 thru 2–1–77 1500

CENTRAL INTELLIGENCE AGENCY AND CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEMS
Executive order conforming the systems with respect to cost of living adjustments 1451

TEXTILE TRADE AGREEMENT
Executive order relating to Arrangement Regarding International Trade in Textiles 1453

ADMINISTRATIVE PROCEDURES
EPA publishes advance notice of proposed rulemaking on financial assistance to participants in agency proceedings; comments by 3–8–77 1492

COAL MINING OPERATING REGULATIONS
Interior/GS proposes Utah surface reclamation requirements; comments by 2–10–77 1489

CHILD CARE FOOD PROGRAM
USDA/FNS announces apportionment of nonfood assistance funds for FY 1977 1475

COLOR ADDITIVES
HEW/FDA postpones closing date for use of provisional list until 1–31–77 1459

COMMEMORATIVE LICENSING PROGRAM
American Revolution Bicentennial Administration rule authorizing licensees to sell inventory on hand and/or in process to manufacture at the end of period without payment of royalty for 60 calendar days 1473

COUNTERFEIT GOLD COINS
Treasury regulations for mitigation of forfeiture; effective 1–1–77 1471

CRUDE OIL
FEA amends price regulations on ceiling prices for January through March, 1977; effective 1–1–77 1456

CONTINUED INSIDE

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/CG—Drawbridge operations; Coffee Pot Bayou, Florida.... 53325; 12–6–76

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register
Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Subscriptions and distribution	202–783–3238
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235

PUBLIC LAWS:

Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

DRUGS
HEW/FDA notice of withdrawal as of 1–7–77 of NADA approval for midicel acetyl suspension 1519

EMPLOYEE BENEFIT PLANS
Labor/Pension and Welfare Benefits Program and Treasury/IRS proposals relating to provision of services and office space, investment of plan assets and notice of pendency of proposed class exemption (2 documents); comments by 1–27–77 ..... 1488, 1525

EXTRA LONG STAPLE COTTON
USDA/ASCS announces result of marketing quota referendum for 1977 crop; effective 1–4–77 1476

FEDERAL CREDIT UNIONS
NCUA regulation on corporate centeral Federal credit unions 1458

FEDERAL TAXATION
Treasury/IRS withdraws notice of proposed rulemaking regarding classification of organizations 1489

FOOD ADDITIVES
HEW/FDA approves safe use of acrylonitrile/styrene copolymer produced by polymerization of 45–65 parts by weight; effective 1–7–77 1460

FOOD STAMP PROGRAM
USDA/FNS proposal implementing Emergency Food Stamp Vendor Accountability Act, 1976; comments by 2–7–77 1479

GRAS
HEW/FDA notice requesting presentations by 2–7–77 on certain food ingredients 1519

INCOME TAXES
Treasury/IRS regulations relating to qualified joint and survivor annuities 1463
Treasury/IRS rules relating to various elections under Tax Reform Act, 1976 and information reporting requirements on certain winnings from bingo, keno and slot machines (2 documents); effective 2–1–77 and 5–9–77 ..... 1469, 1471

INTERSHIP COMMUNICATIONS
FCC amends rules to allow use of very high frequency marine channel 17; effective 2–7–77 1474

MOBILE HOME LOANS
HUD proposal for calculation of earned interest; comments by 2–8–77 1487

MONTHLY SALES LIST
USDA/CCC reduces interest rate on delinquent payments and adds peanut provisions 1496

NEW ANIMAL DRUGS
HEW/FDA approves a sterile benzathine cloxacillin for intramammary infusion for treating mastitis in cows; effective 1–7–77 1462
HEW/FDA rule clarifying drug regulations for coumaphos used in animal feeds; effective 1–7–77 1463
HEW/FDA revokes rule providing for use of acetyl sulfamethoxypyridazine oral suspension; effective 1–7–77 1462

NEW DRUGS
HEW/FDA offers opportunity to request hearing by 2–7–77 on indications lacking substantial evidence of effectiveness for imipramine hydrochloride 1517

PRIVACY ACT, 1974
DOT publishes additional notices of systems of records 1555

PROPRIETARY VOCATIONAL AND HOME STUDY SCHOOLS
FTC proposal on public availability of staff report; comments by 3–8–77 1483

REFUSE BINS
CPSC proposal declaring as banned hazardous products certain unstable bins having a capacity greater than one cubic yard; comments by 10–7–77 1484

REMUNERATION SCHEDULE
Labor/ETA prescribes schedule used in computing Federal wages of persons covered under Unemployment Compensation for Ex-servicemen Program; effective 1–1–77 1459

SACCHARIN
HEW/FDA proposal amending interim food additive regulation; comments by 3–8–77 1461
HEW/FDA extends interim authority for use of saccharin and its salts until ongoing studies are completed and evaluated; effective 1–7–77 1486

MEETINGS—
FEA: Rate Design Initiatives; 1–31–77 1508
HEW/ADAMHA: Epidemiologic Studies Review Committee, 2–7 and 2–8–77 1514
Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, 1–25–77 1515
FDA: Ear, Nose and Throat Panel, 1–24 and 1–25–77 1517
OE: Women's Educational Programs National Advisory Council, 1–31 thru 2–2–77 1516
Interior/GS: Earthquake Studies Advisory Panel, 2–4 and 2–5–77 1522
NPS: Appalachian National Scenic Trail Advisory Council (2 documents), 1–22 and 2–4–77 1522
Cuyahoga Valley National Recreation Area Advisory Commission, 1–27–77 1523
Indiana Dunes National Lakeshore Advisory Commission, 1–21–77 1523
ITC: Government in the Sunshine, 1–14–77 1524
Labor/FCCPO: Higher Education Equal Employment Opportunity Advisory Committee, 2–27–77 1530
National Center for Productivity and Quality of Working Life: Board of Directors, 1–12–77 1545
NFAH: National Endowment for the Arts (2 documents), 1–19, 1–24 and 1–25–77 1547
NSF: Federal Scientific and Technical Information Managers, 1–12–77 1547
Memory and Cognitive Processes, 1–31 and 2–1–77 1547
Science Education Projects, 1–27, 1–29, and 1–30 thru 2–1–77 1548
USDA/AMS: Shippers Advisory Committee, 1–25–77 1496
FNS: Maternal, Infant and Fetal Nutrition National Advisory Council, 2–9 and 2–10–77 1495

CANCELLED MEETING—
ERDA:General Advisory Committee, 1–13–77 1503

PART II:

EMPLOYEE BENEFIT PLANS
Labor/Pension and Welfare Benefits Program proposal relating to the acquisition and holding of employer securities and employer real property; comments by 2–22–77 1617

PART III:

DRUGS
HEW/FDA issues procedures for establishing a bioequivalence requirement (2 documents); effective 2–7–77 ..... 1624, 1638

PART IV:

FARMWORKER PROGRAMS
Labor regulations concerning migrant and others seasonally employed; effective 2–7–77 1655

PART V:

MINIMUM WAGES
Labor/ESA publishes general wage determination decisions and index as of 12–3–76 for Federal and federally assisted construction (2 documents) 1677

PART VI:

MACHINERY AND MACHINE GUARDING
Labor/OSHA proposals requesting information on technical issues and providing notice of public meetings (2 documents); comments by 4–7–77 ..... 1742, 1806

contents

THE PRESIDENT

Executive Orders

Central Intelligence Agency and Civil Service Retirement and Disability Systems, cost of living adjustments; conformity 1451
Textiles, Arrangement Regarding International Trade in 1453

EXECUTIVE AGENCIES

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notices

Committees; establishment, renewals, etc.:
Voluntary Foreign Aid Advisory Committee; continuation 1555

AGRICULTURAL MARKETING SERVICE

Rules

Lemons grown in Ariz. and Calif 1476

Notices

Meetings:
Shippers Advisory Committee 1496

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules

Cotton, extra long staple; marketing quotas and acreage allotments 1476

AGRICULTURE DEPARTMENT

See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Food and Nutrition Service; Rural Electrification Administration.

Notices

Committees; establishment, renewals, etc.:
Container Standards for Fresh Fruits and Vegetables Advisory Committee; establishment 1497

CONTENTS

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Notices

Meetings:
- Epidemiologic Studies Review Committee et al. 1514
- Federal Activities for Alcohol Abuse and Alcoholism Interagency Committee 1515

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

Rules

Licensing program, official commemorative; disposition of inventory 1473

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Rules

Overtime services relating to imports and exports:
- Agricultural quarantine inspectors; duty at border ports, seaports, and airports; republication 1475
- Animals; overtime at laboratories, border ports, ocean ports and airports 1455

Viruses, serums, toxins, etc.:
- Standard requirements, testing samples, number required; republication 1456

Proposed Rules

Animal and poultry import restrictions:
- Birds; extension of time; republication 1483

ARTS AND HUMANITIES NATIONAL FOUNDATION

Notices

Committees; establishment, renewals, etc.:
- Architecture & Environmental Arts Advisory Panel 1545
- Dance Advisory Panel 1545
- Expansion Arts Advisory Panel (2 documents) 1545, 1547
- Federal Graphics Evaluation Advisory Panel 1546
- Literature Advisory Panel 1546
- Museum Advisory Panel 1546
- Music Advisory Panel 1546
- Public Media Advisory Panel 1546
- Theatre Advisory Panel 1546
- Visual Arts Advisory Panel (2 documents) 1547

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

Notices

Procurement list, 1977, additions and deletions (2 documents) 1501

CENSUS BUREAU

Notices

Population censuses, special; results 1500

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
- British Airways 1497
- Piedmont Aviation, Inc 1498
- Yusen Air & Sea Service Co., Ltd., (Japan), et al 1499

CIVIL SERVICE COMMISSION

Rules

Excepted service:
- Air Force Department 1455
- Labor Department 1455

COMMERCE DEPARTMENT

See Census Bureau; Domestic and International Business Administration; National Oceanic and Atmospheric Administration.

COMMODITY CREDIT CORPORATION

Notices

Monthly sales list:
- July 1, 1976 through May 31, 1977 1496

COMMUNITY PLANNING AND DEVELOPMENT, OFFICE OF ASSISTANT SECRETARY

Proposed Rules

Urban renewal project land disposition; mandatory use of HUD standards contract forms; withdrawn 1488

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Rules

Hazardous products, banned:
- Refuse bins 1484

DEFENSE DEPARTMENT

Proposed Rules

Sunshine Act implementation; Uniformed Services University of Health Sciences, Board of Regents; meeting procedures; correction 1492

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Committees; establishment, renewals, etc.:
- President's Export Council Task Force on Export Promotion; correction 1500

Scientific articles; duty free entry:
- IIT Research Institute, et al.; correction 1500
- University of Cincinnati; correction 1500

EDUCATION OFFICE

Notices

Applications and proposals, closing dates:
- Arts education program 1516

Meetings:
- Women's Educational Programs National Advisory Council 1516

EMPLOYMENT AND TRAINING ADMINISTRATION

Rules

Unemployment compensation; ex-servicemen:
- Remuneration schedule 1459

Notices

Unemployment compensation, emergency:
- Federal supplemental benefits; availability; Arkansas 1524

EMPLOYMENT STANDARDS ADMINISTRATION

Notices

Index to general wage determination decisions and modifications 1687

Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decision 1677

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Notices

Meetings:
- General Advisory Committee, cancellation 1503

ENVIRONMENTAL PROTECTION AGENCY

Proposed Rules

Administrative practices and procedures:
- Public participation in agency proceedings; financial assistance 1492

Air quality implementation plans; various States, etc.:
- Utah 1494

Notices

Air pollution control, motor vehicle pollution control standards; waiver of Federal preemption; California 1503

Environmental statements; availability, etc.:
- Emission standards for light duty trucks 1507
- Wastewater treatment facilities, Norman, Oklahoma 1507

ENVIRONMENTAL QUALITY COUNCIL

Notices

Environmental statements; availability, etc 1502

FEDERAL COMMUNICATIONS COMMISSION

Rules

Maritime services, land and shipboard stations:
- Intership communications, State control; VHF marine channel 17 use 1474

Notices

Rulemaking proceedings filed; granted, denied, etc.; petitions by various companies 1521

FEDERAL CONTRACT COMPLIANCE PROGRAMS OFFICE

Notices

Meetings:
- Higher Education Equal Employment Opportunity Programs Federal Advisory Committee ... 1530

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

Notices

Disaster and emergency areas:
- Minnesota, North Dakota, South Dakota, and Wisconsin ... 1521

FEDERAL ENERGY ADMINISTRATION

Rules

Petroleum price regulations, mandatory:
- Crude oil, domestic; pricing adjustments, corrective actions, statutory composite price levels ... 1456

Notices

Energy Supply and Environmental Coordination Act:
- Iowa Public Service Company's Maynard Generating Station Powerplant 14; negative determination of environmental impact ... 1508

Meetings:
- Rate Design Initiatives Subcommittee of the State Regulatory Advisory Committee ... 1508

FEDERAL HOUSING COMMISSIONER—OFFICE OF ASSISTANT SECRETARY FOR HOUSING

Proposed Rules

Mortgage and loan insurance programs:
- Mobile homes; loan prepayment ... 1487

FEDERAL INSURANCE ADMINISTRATION

Notices

Flood Insurance Program, National:
- Communities with minimal special flood hazard areas, determination ... 1522

FEDERAL MARITIME COMMISSION

Rules

Tariffs, filing by common carriers by water in foreign commerce of U.S.:
- U.S. North Pacific-Canada-Alaska trade; exemptions ... 1473

Notices

Liability incurred for death or injury; certificate of financial responsibility ... 1508

Security for protection of public; indemnification of passengers for nonperformance of transportation; certificate of financial responsibility ... 1508

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
- Cimarron Transmission Co., et al ... 1509
- Gulf Oil Corp ... 1509
- Rex Monahan, et al ... 1510

FEDERAL REGISTER OFFICE

Notices

Clarity in Federal regulations; legal drafting workshop ... 1500

FEDERAL RESERVE SYSTEM

Notices

Federal Open Market Committee: Domestic policy directives ... 1510

Applications, etc.:
- Banco Union, C.A. et al ... 1510
- First Maryland Bancorp ... 1512
- Manufacturers National Corp ... 1513

FEDERAL TRADE COMMISSION

Proposed Rules

Vocational and home study schools, proprietary, advertising, disclosure, cooling-off and refund requirements ... 1483

FOOD AND DRUG ADMINISTRATION

Rules

Administrative practices and procedures; formal evidentiary public hearings; correction ... 1459

Animal drugs, feeds, and related products:
- Acetyl sulfamethoxypyridazine oral suspension ... 1462
- Benzathine cloxacillin for intramammary infusion, sterile ... 1462
- Coumaphos ... 1463

Color additives, provisionally listed; postponement of closing dates ... 1459

Food additives:
- Acrylonitrile/styrene copolymer ... 1460
- Saccharin and its salts ... 1461

Human drugs:
- Bioavailability and bioequivalence requirements (2 documents) ... 1624, 1638

Proposed Rules

Food additives:
- Saccharin and its salts ... 1486

Nonclinical laboratory studies, good laboratory practice; requirements established; correction ... 1486

Notices

Animal drugs:
- Midicel acetyl; approval withdrawn ... 1519

GRAS status, petitions:
- Food ingredients, certain; hearing ... 1519

Human drugs:
- Imipramine hydrochloride ... 1517

Meetings:
- Ear, Nose, and Throat Panel ... 1517

FOOD AND NUTRITION SERVICE

Rules

Child care food program:
- Nonfood assistance funds for FY 1977 ... 1475

Proposed Rules

Food stamp program:
- State agencies and coupon venders, responsibility ... 1479

Notices

Meetings:
- Maternal, Infant and Fetal Nutrition National Advisory Council ... 1496

FOREIGN ASSETS CONTROL OFFICE

Rules

Cuban assets control; foreign subsidiary requirements deleted ... 1472

GENERAL SERVICES ADMINISTRATION

Rules

Property management:
- Federal energy conservation; cross reference ... 1478
- Federal motor vehicle management; CFR changes and redesignation ... 1477

GEOLOGICAL SURVEY

Proposed Rules

Coal mining operating regulations:
- Utah; cooperative agreement ... 1489

Notices

Meetings:
- Earthquake Studies Advisory Panel ... 1522

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Alcohol, Drug Abuse, and Mental Health Administration; Education Office; Food and Drug Administration.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Community Planning and Development, Office of Assistant Secretary; Federal Disaster Assistance Administration; Federal Housing Commissioner—Office of Assistant Secretary for Housing; Federal Insurance Administration.

INTERIOR DEPARTMENT

See Geological Survey; National Park Service.

INTERNAL REVENUE SERVICE

Rules

Income taxes:
- Annuities, qualified joint and survivor ... 1463
- Bingo, keno, and slot machine winnings ... 1471
- Various elections under Tax Reform Act of 1976 ... 1469

Proposed Rules

Excise taxes:
- Employee benefit plans; exemptions for services, office space, etc.; hearing; republication ... 1488

Procedure and administration:
- Organizations, classification for Federal taxation; withdrawal ... 1489

Notices

Employee benefit plans:
- Prohibitions on transactions; exemption proceedings, hearings, etc.; republication ... 1525

INTERNATIONAL TRADE COMMISSION

Notices

Import investigations:
- Certain solder-removal wicks ... 1523
- Meetings ... 1524

INTERSTATE COMMERCE COMMISSION

Rules

Reports:
- Motor carriers, water carriers, and freight forwarders ... 1474

Notices

Car service exemptions, mandatory (3 documents) ... 1559, 1560
Fourth section application for relief ... 1560
Hearing assignments ... 1559
Motor carriers:
- Temporary authority applications ... 1560

LABOR DEPARTMENT

See also Employment and Training Administration; Employment Standards Administration; Federal Contract Compliance Programs Office; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.

Rules

Comprehensive Employment and Training Act:
- Migrant and other seasonally employed farmworker programs ... 1655

Notices

Adjustment assistance:
- Allied Chemical Corp ... 1531
- Armco Steel Corp. (4 documents) ... 1531, 1532
- Calumet Steel Co ... 1532
- Cyclops Corp ... 1533
- Hunt Valve Co., Inc ... 1533
- Interlake, Inc. (4 documents) ... 1533, 1534
- Jones & Laughlin Steel Corp. (3 documents) ... 1535
- Koppers Co., Inc. (2 documents) ... 1536
- Laclede Steel Co. (2 documents) ... 1536, 1537
- Mueler Co ... 1537
- Philadelphia Coke Co., Inc ... 1537
- Sondra, Inc ... 1538
- Standard Glove Co. of N.J., Inc ... 1538
- Timkin Co ... 1538
- Titanium Metals Corp. of America ... 1539
- U.S. Steel Corp. (11 documents) ... 1539–1543
- Union Electric Steel Corp ... 1539
- Wheeling Pittsburgh Steel Corp. (5 documents) ... 1543–1544
- Youngstown Sheet & Tube Co ... 1545

NATIONAL CREDIT UNION ADMINISTRATION

Rules

Federal Credit Unions:
- Corporate central Federal credit unions ... 1458

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notices

Marine mammal permit applications, etc.:
- Aquarium of Cape Cod, Inc ... 1500
- Sea Life, Inc ... 1501

NATIONAL PARK SERVICE

Notices

Meetings:
- Appalachian National Scenic Trail Advisory Council (2 documents) ... 1522
- Cuyahoga Valley National Recreation Area Advisory Commission ... 1523
- Indiana Dunes National Lakeshore Advisory Commission ... 1523

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
- Federal Scientific and Technical Information Managers ... 1547
- Memory and Cognitive Processes Advisory Panel ... 1547
- Science Education Projects Advisory Panel (2 documents) ... 1548

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Proposed Rules

Health and safety standards:
- Machinery and machine guarding; inquiry (2 documents) ... 1742, 1806

Notices

Committees; establishment, renewals, etc.:
- Construction Safety and Health Advisory Committee; appointment of members ... 1525

PENSION AND WELFARE BENEFIT PROGRAMS OFFICE

Proposed Rules

Fiduciary responsibility:
- Employee benefit plans; exemptions for services, office space, etc.; hearing; republication ... 1488
- Employer securities and real property; acquisition and holding, divestiture ... 1617

Notices

Employee benefit plans:
- Prohibitions on transactions; exemption proceedings, hearings, etc.; republication ... 1525

RURAL ELECTRIFICATION ADMINISTRATION

Proposed Rules

Rural telephone program:
- Cable, inside wiring; specifications ... 1479
- Cables, switchboard; specifications ... 1479

Notices

Loan guarantees proposed:
- Northern Michigan Electric Cooperative, Inc ... 1496
- Wolverine Electric Cooperative, Inc ... 1497

SECURITIES AND EXCHANGE COMMISSION

Notices

Self-regulatory organizations; proposed rules changes:
- American Stock Exchange, Inc ... 1548
- Chicago Board Options Exchange, Inc ... 1548
- Pacific Stock Exchange, Inc ... 1553

Hearings, etc.:
- Fidelity Convertible & Senior Securities Fund, Inc ... 1551
- Gemex Minerals, Inc ... 1551
- General Oil, Inc ... 1551
- Monongahela Power Co., et al ... 1552
- Omni-Rx Health Systems ... 1553
- Paramount Mutual Fund, Inc ... 1553
- Thomson & McKinnon Auchincloss Kohlmeyer Inc. & James F. Joy ... 1554

STATE DEPARTMENT

See Agency For International Development.

TRANSPORTATION DEPARTMENT

Notices

Privacy Act; systems of records ... 1555

TREASURY DEPARTMENT

See also Foreign Assets Control Office; Internal Revenue Service.

Rules

Gold coins, counterfeit; mitigation of forfeiture ... 1471

Notices

Authority delegations:
- Tax Legislation Deputy Assistant Secretary et al ... 1559

Committees; establishment, renewals, etc.:
- U.S. Government and Federal Agencies Securities Committee of Public Securities Association; name change ... 1559

WORKING LIFE PRODUCTIVITY AND QUALITY, NATIONAL CENTER

Notices

Meetings:
- Board of Directors ... 1545

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Briefings at the Office of the Federal Register

(For Details, See 41 FR 46527, Oct. 21, 1976)

RESERVATIONS: DEAN L. SMITH, 523–5282

list of cfr parts affected in this issue

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.

3 CFR

EXECUTIVE ORDERS:
11651 (Amended by EO 11951) .. 1453
11950 1451
11951 1453

5 CFR

213 (2 documents) 1455

7 CFR

226 1475
354 1475
722 1476
910 1476

PROPOSED RULES:
270 1479
271 1479
275 1479
1701 (2 documents) 1479

9 CFR

97 1455
113 1456

PROPOSED RULES:
92 1483

10 CFR

212 1456

12 CFR

704 1458

16 CFR

PROPOSED RULES:
438 1483
1301 1484

20 CFR

614 1459

21 CFR

2 1459
8 1459
121 (2 documents) 1460, 1461
314 (2 documents) 1624, 1638
320 (2 documents) 1624, 1638
520 1462
540 1462
558 1463

PROPOSED RULES:
3e 1483
121 1483

24 CFR

PROPOSED RULES:
201 1487
501 1488

26 CFR

1 1463
7 (2 documents) 1469, 1471

PROPOSED RULES:
54 1488
301 1489

29 CFR

94 1656
97 1656

PROPOSED RULES:
1910 (2 documents) 1742, 1806
2550 ..... 1488, 1618

30 CFR

PROPOSED RULES:
211 1489

31 CFR

101 1471
515 1472

32 CFR

PROPOSED RULES:
242a 1492

34 CFR

232 1478

36 CFR

606 1473

40 CFR

PROPOSED RULES:
22 1492
52 1494

41 CFR

101–38 1477

46 CFR

536 1473

47 CFR

81 1474
83 1474

49 CFR

1241 1474
1249 1474
1250 1474
1251 1474

CUMULATIVE LIST OF PARTS AFFECTED DURING JANUARY

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 January.

1 CFR

PROPOSED RULES:

442 ... 1267

3 CFR

EXECUTIVE ORDERS:

11651 (Amended by EO 11951) ... 1453
11821 (Amended by EO 11949) ... 1017
11949 ... 1017
11950 ... 1451
11951 ... 1453

5 CFR

213 ... 1455

7 CFR

1 ... 743
26 ... 1019
226 ... 1475
354 ... 1475
722 ... 1476
729 ... 749
905 ... 1022
907 ... 1230
910 ... 1476
928 ... 1, 2
1430 ... 3
1822 ... 1023
1843 ... 1231

PROPOSED RULES:

270 ... 1479
271 ... 1479
272 ... 780
275 ... 1479
730 ... 780
1063 ... 1356
1070 ... 1356
1078 ... 1356
1079 ... 1356
1701 ... 1479

9 CFR

97 ... 1455
113 ... 750, 1456
319 ... 751

PROPOSED RULES:

92 ... 1483

10 CFR

140 ... 46
Ch. II ... 1036
212 ... 1036, 1456

12 CFR

202 ... 1242
207 ... 968
211 ... 752
213 ... 752
220 ... 752
221 ... 968
224 ... 968
225 ... 752, 1263
226 ... 753, 1264
704 ... 1458

PROPOSED RULES:

226 ... 780, 1268
604 ... 55

13 CFR

309 ... 753

14 CFR

37 ... 19
39 ... 1217, 1218
71 ... 300
73 ... 300
75 ... 300
97 ... 1219
221a ... 1220
241 ... 1219
385 ... 1220

PROPOSED RULES:

39 ... 1268–1270
71 ... 1270–1271
288 ... 1271

15 CFR

371 ... 1222
377 ... 1222
931 ... 1164

16 CFR

13 ... 3–5
1201 ... 1428

PROPOSED RULES:

438 ... 1483
450 ... 1038
1301 ... 1484

17 CFR

200 ... 753
240 ... 753, 754
241 ... 759

PROPOSED RULES:

240 ... 781, 782
249 ... 782

18 CFR

11 ... 1226
141 ... 6

PROPOSED RULES:

154 ... 1272
157 ... 56

19 CFR

PROPOSED RULES:

201 ... 805

20 CFR

405 ... 1028
614 ... 1459

21 CFR

2 ... 1459
8 ... 1459
102 ... 761
121 ... 1460, 1461
314 ... 1624, 1638
320 ... 1624, 1638
520 ... 1462
540 ... 1462
558 ... 761, 1463

21 CFR—Continued

PROPOSED RULES:

3e ... 1483
11 ... 806
121 ... 1483
128d ... 807

23 CFR

625 ... 6
712 ... 7

24 CFR

203 ... 762
205 ... 763
207 ... 764
213 ... 764
221 ... 765
231 ... 766
232 ... 763
241 ... 763
242 ... 763
244 ... 763
280 ... 960

PROPOSED RULES:

201 ... 1487
501 ... 1488

26 CFR

1 ... 767, 1195, 1463
7 ... 1469, 1471
404 ... 1029

PROPOSED RULES:

1 ... 57
54 ... 1488
301 ... 1038, 1489

28 CFR

PROPOSED RULES:

32 ... 1390

29 CFR

15 ... 769
94 ... 1656
97 ... 1656
99 ... 773

PROPOSED RULES:

1910 ... 808, 1742, 1806
2550 ... 1488, 1618

30 CFR

100 ... 1214

PROPOSED RULES:

211 ... 1489

31 CFR

101 ... 1471
210 ... 9
515 ... 1472

32 CFR

256 ... 773

PROPOSED RULES:

242a ... 1492

33 CFR

40 10
159 11

34 CFR

Ch. I 12
232 1478

36 CFR

606 1473

PROPOSED RULES:

16 812
17 812

40 CFR

60 1214
61 1215
86 ..... 1122, 1150
430 1398

PROPOSED RULES:

22 1492
52 ..... 1273, 1494
85 1044
180 815
1516 1044

41 CFR

Ch. 14 1215
14-1 1215
14-10 1215
101-1 12
101-25 1030
101-26 1032
101-38 1477

PROPOSED RULES:

3-1 1273
101-17 816

43 CFR

4 1216
2650 779
3100 1032
4110 778
4120 778

PROPOSED RULES:

3800 1045

45 CFR

193 1190
250 779

PROPOSED RULES:

1480 1045

46 CFR

536 1473

PROPOSED RULES:

12 1278
502 817

47 CFR

13 1231
15 1231
21 1232
73 1233
81 1474
83 ..... 1231, 1474

PROPOSED RULES:

64 1278
73 ..... 1278, 1279

49 CFR

25 12
225 1221
231 1222
1047 19
1241 1474
1249 1474
1250 1474
1251 1474

50 CFR

26 1033
33 1034
216 1034

PROPOSED RULES:

216 1049

FEDERAL REGISTER PAGES AND DATES—JANUARY

Pages	*Date*
1-741	Jan. 3
743-1015	4
1017-1194	5
1195-1450	6
1451-2049	7

presidential documents

Title 3—The President

Executive Order 11950 • **January 6, 1977**

Conforming the Central Intelligence Agency and Civil Service Retirement and Disability Systems With Respect To Cost of Living Adjustments

By virtue of the authority vested in me by section 801(c) of the Department of Defense Appropriation Authorization Act, 1977 (90 Stat. 929; 10 U.S.C. 1401a note), section 292 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (90 Stat. 2472; 50 U.S.C. 403 note), and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Director of Central Intelligence shall:

(a) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

(b) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

SEC. 2. If in any year the percent change determined under either section 1(a) or 1(b) indicates a rise in the price index, then:

(a) effective March 1 of such year, in the case of an increase under section 1(a), each annuity payable from the Central Intelligence Agency Retirement and Disability Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest $\frac{1}{10}$ of 1 percent, or

(b) effective September 1 of such year, in the case of an increase under section 1(b), each annuity payable from the Central Intelligence Agency Retirement and Disability Fund having a commencing date not later than such September 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest $\frac{1}{10}$ of 1 percent.

SEC. 3. The changes made by sections 1 and 2 of this order shall apply to any increase in annuities after October 1, 1976, except that with respect to the first date after October 1, 1976 on which the Director is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month immediately prior to October 1, 1976 for which the price index showed a percent rise forming the basis of a cost of living annuity increase under section 291(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as in effect immediately prior to October 1, 1976.

Gerald R. Ford

THE WHITE HOUSE,
January 6, 1977.

[FR Doc.77-839 Filed 1-6-77;10:47 am]

Executive Order 11951 • January 6, 1977

Relating to the Arrangement Regarding International Trade in Textiles

By virtue of the authority vested in me by the Constitution and statutes of the United States of America and as President of the United States of America, Section 1(c) of Executive Order No. 11651 of March 3, 1972, is amended by deleting "Articles 3 and 6 of the Long Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, as extended," and substituting "Articles 3 and 8 of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973,".

Gerald R. Ford

THE WHITE HOUSE,
January 6, 1977.

[FR Doc.77-840 Filed 1-6-77;10:48 am]

rules and regulations

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

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of the Air Force

Section 213.3109 is amended to show that professional, technical, managerial and administrative positions supporting space activities in the Department of the Air Force are excepted under Schedule A.

Effective: January 7, 1977, § 213.3109 (b) (1) is added as set out below:

§ 213.3109 Department of the Air Force.

* * * * *

(b) *General.*

(1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

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

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

[FR Doc.77-617 Filed 1-6-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3115(b) is amended to show that up to 500 part-time and intermittent employees with salaries equivalent to GS–6 and below may be employed up to 1,440 hours a year in field survey, enumeration work in the Bureau of Labor Statistics. This amendment raises the grade level limit from GS–5 to GS–6, removes restrictions on the number of employees who can serve at the GS–5 level, removes differences in the amount of service allowed at each grade level, and restates the service limit in terms of hours rather than days.

Effective: January 7, 1977, § 213.3115 (b) (1) is amended as set out below:

§ 213.3115 Department of Labor.

* * * * *

(b) *Bureau of Labor Statistics*

(1) Not to exceed 500 positions involving part-time and intermittent employment for field survey enumeration work in the Bureau of Labor Statistics. This authority is applicable to positions where the salary is equivalent to GS–6 and below. Employment under this authority may not exceed 1,440 work hours in a service year. No new appointment may be made under this authority after December 31, 1978.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-616 Filed 1-6-77;8:45 am]

Title 9—Animals and Animal Products

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

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Overtime, Night and Holiday Inspection or Quarantine at Airports

● *Purpose.* The purpose of this document is to amend 9 CFR 97.1 relating to charges for overtime work performed at airports outside of the regularly established hours of service. ●

Veterinary Services inspectors of the U.S. Department of Agriculture are charged with rendering inspection and quarantine services relating to imports and exports at border ports, ocean ports, and air ports. Such services may be performed outside the regular tour of duty of the inspector when requested by a person, firm, or corporation and the charge for such overtime is recoverable from those requesting the services. The following amendment to § 97.1 changes the overtime rate to be charged owners and operators of aircraft for work performed outside of the regularly established hours of service to comply with the 1976 Amendments of the Airport and Airways Development Act of 1970 (49 U.S.C. 1741). This amendment provides that any required quarantine or inspection service for operation of aircraft at airports performed by an employee of Veterinary Services during regularly established hours of service on Sundays or holidays will be performed without reimbursement from the owners or operators of aircraft to the same extent as if service had been performed during regularly established hours of service during weekdays. Further administrative overhead costs associated with such services at airports shall not be assessed against the owners or operators of the aircraft.

Accordingly, Part 97, Title 9, Code of Federal Regulations, is amended in the following respect:

In § 97.1, the first sentence of paragraph (a) is amended, paragraph (b) is redesignated as paragraph (c) and a new paragraph (b) is added to read:

§ 97.1 Overtime work at laboratories, border ports, ocean ports, and air ports.[1]

(a) Any person, firm, or corporation having ownership, custody or control of animals, animal byproducts, or other commodities subject to inspection, laboratory testing, certification, or quarantine under this subchapter and Subchapter G of this chapter, and who requires the services of an employee of Veterinary Services on a holiday or Sunday or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of overtime or holiday or Sunday service request the Veterinary Services inspector in charge to furnish inspection, laboratory testing, certification or quarantine service during such overtime or holiday or Sunday period, except as provided in paragraph (b) of this section, shall pay the Administrator of the Animal and Plant Health Inspection Service at a rate of $21.32 per man hour per employee on a Sunday and at a rate of $14.60 per man hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, except as provided in paragraph (b) of this section for inspection or quarantine services requested by an owner or operator of an aircraft at an airport on a Sunday or holiday which are performed within regularly established hours of service, or at any time after 5 p.m. or before 8 a.m. on a week day, in connection with the arrival in or departure from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture. * * *

(b) Any owner or operator of an aircraft requesting inspection services or quarantine services at an airport during regularly established hours of service on a Sunday or holiday shall be provided service without reimbursement as if such service had been performed during regularly established hours of service on weekdays. When services are performed outside of the regularly established hours of service on a Sunday or holiday or any other day, the rate to be charged owners or operators of aircraft shall be $17.52 per hour on a Sunday and $10.84 per hour on a holiday or any other day,

[1] For designated ports of entry for certain animals, animal semen, poultry, and hatching eggs see 9 CFR 92.1 through 92.3; and for designated ports of entry for certain purebred animals see 9 CFR 151.1 through 151.3.

which charges exclude administrative overhead costs.

* * * * *

(64 Stat. 561 (7 U.S.C. 2260); Sec. 15 of Pub. L. 94-353, 90 Stat. 882) (49 U.S.C. 1741)).

Effective date: The foregoing amendment shall become effective January 1, 1977.

Determination of the hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. It is to the benefit of those who require such overtime services, as well as the public generally, that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to the administrative provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 3rd day of January 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Acting Deputy Administrator Veterinary Services.

[FR Doc.77-619 Filed 1-6-77;8:45 am]

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

PART 113—STANDARD REQUIREMENTS

Miscellaneous Amendments

• *Purpose:* To correct the number of samples required for testing. •

Statement of considerations. The number of samples of a product submitted by each licensee for testing by Veterinary Services is prescribed in § 113.3. The number is based on the requirements of tests which may be conducted on each class of product by Veterinary Services personnel.

Subsequent to preparing the current list of samples, some products have been reclassified by definition from a bacterin to a bacterin-toxoid. The number of samples prescribed in § 113.3 for these products was not adjusted accordingly. These changes will provide the necessary number of samples for proper testing.

Pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158) Part 113, Subchapter E, Chapter 1 of Title 9 of the Code of Federal Regulations is amended by making the following administrative changes:

Section 113.3 is amended by revising paragraphs (b)(2) and (b)(5) to read:

§ 113.3 Sampling of biological products.

* * * * *

(b) * * *

(2) *Bacterins and Bacterin-Toxoids:*

(i) Twelve samples of single-fraction bacterins and bacterin-toxoids.

(ii) Thirteen samples of double-fraction bacterins and bacterin-toxoids.

(iii) Fourteen samples of triple-fraction bacterins and bacterin-toxoids.

(iv) Fifteen samples of bacterins and bacterin-toxoids containing more than three fractions.

* * * * *

(5) *Toxoids:* Sixteen single-dose samples or thirteen multiple-dose samples of tetanus toxoid or twelve samples of all other toxoids.

* * * * *

(21 U.S.C. 151 and 154; 37 FR 28477; 38 FR 19141.)

These amendments provide administrative changes in the biologics control program administered in accordance with the Virus-Serum-Toxin Act. In order to be of maximum benefit, they must be made effective immediately.

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

The foregoing amendments shall become effective December 28, 1976.

Done at Washington, D.C., this 23rd day of December, 1976.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

J. M. HEJL,
Deputy Administrator, Veterinary Services.

[FR Doc.76-38229 Filed 12-28-76;8:45 am]

(NOTE.—This document is being reprinted entirely without change from the issue of Wednesday, December 29, 1976.)

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Crude Oil Prices; Further Extension of Current Domestic Crude Oil Ceiling Price Freeze and Corrective Adjustments to Upper Tier Ceiling Price Levels for January–March, 1977, To Comply With Statutory Composite Price Limitations

A. SUMMARY

FEA is today amending the domestic crude oil price regulations to provide for a continuation of the current freeze on crude oil ceiling prices and to adjust downward the upper tier ceiling price by 20 cents per barrel for the months of January through March, 1977. This action corrects for the amount by which the actual weighted average upper tier price was higher than intended when upper tier ceiling prices were first imposed in February, 1976, and is being taken to achieve compliance with the limitations on domestic crude oil prices of section 8 of the Emergency Petroleum Allocation Act of 1973 ("EPAA"). Upper tier crude oil accounts for about 35 percent of domestic crude oil production and 20 percent of all crude oil processed in United States refineries.

Section 8(f) of the EPAA provides an opportunity during March, 1977, for a full review by Congress of the operation of the crude oil pricing limitations which are required under section 8, including their impact on domestic production. Accordingly, today's action extends only through March, when that review will take place. However, in the event that there were to be no changes in the current statutory limitations on crude oil prices as a result of that review, an extention of the price levels specified in today's notice would serve to achieve full compliance with those limitations by July 31, 1977, based on current data and projections.

It should be noted that the 20 cents per barrel reduction in the upper tier ceiling price approximates the amount by which actual weighted average first sale prices of crude oil subject to the upper tier ceiling price exceeded the projected level in February, 1976, when the upper tier ceiling price was first implemented. At that time, no actual first sale data was available, and the attempt to achieve an actual weighted average upper tier price of $11.28 per barrel resulted instead in an actual weighted average upper tier price for February of $11.48 per barrel.

Today's action will have the effect of reducing the actual weighted average first sale price of domestic crude oil from December, 1976, levels by an average of four cents per barrel during the months of January and February, 1977. The actual composite price for March, 1977, should approximately equal the actual composite price of domestic crude oil for December, 1976.

B. BACKGROUND.

On November 16, 1976, the Federal Energy Administration ("FEA") issued a notice of proposed rulemaking and public hearing (41 FR 50960, November 18, 1976) in order to consider what steps FEA should take to comply with the requirement in section 8(c) of the EPAA, to make adjustments in crude oil price levels to compensate for actual weighted average first sale prices of domestic crude oil which have exceeded the statutory maximum weighted average first sale price limitations. In its notice of proposed rulemaking, FEA noted that the amounts in excess of the

statutory limits appeared to have increased significantly in recent months, due primarily to recent statutory and regulatory amendments relating to qualification for stripper well status and the definition of "property," even though upper and lower tier crude oil price ceilings had remained since July 1, 1976, at the maximum levels permissible for June, 1976.

Alternative proposals upon which comments were requested were: (1) A rollback of upper tier price levels by an estimated $1.40 to $1.60 per barrel during December, 1976, and January, 1977, in order to compensate fully by January 31, 1977, for cumulative pricing overages since February which, as of September (preliminary data), totalled nearly $200 million; (2) A continuation of the limitation on crude oil ceiling prices at their June, 1976, levels through December, 1976, in order to obtain more complete data, followed by appropriate compensatory action extending over a seven-month period (January to July, 1977) in order to compensate fully by July 31, 1977, for cumulative pricing overages through December, 1976, while also minimizing disruptive effects on domestic production which might result from option (1); and (3) depending upon the results of data for December, 1976, under alternative (2), further continue the price freeze pending consideration by Congress of an energy action to be submitted by FEA pursuant to section 8(e) of the EPAA, under which a one-time increase in the statutory composite price for January, 1977, sufficient to compensate for total cumulative receipts projected to exist at that time, would be proposed.

FEA noted that, if preliminary results for September, 1976, were confirmed by available data in December, 1976, a continuation of the present freeze on crude oil price ceilings until July 31, 1977, would be sufficient to correct fully for all crude oil pricing overages which have occurred or which shall have occurred since February, 1976. FEA also stated, however, that later data might indicate that this course of action would not be sufficient, and in such event FEA would, under the proposed regulation amendments, be able to reduce upper tier ceiling price levels to the extent necessary to reduce cumulative excess revenues to zero by July 31, 1977.

Following receipt of written comment and public hearings on these matters, FEA on November 30, 1976, issued regulation amendments which (1) Extended the ceiling price freeze until December 31, 1976, in order to obtain more complete data before taking further corrective action to compensate for pricing overages, and (2) Provided FEA with authority to require price reductions should such action become necessary (41 FR 53333, December 6, 1976). In addition, the rulemaking proceedings were expressly continued with respect to a final decision on the appropriate action to be taken with respect to crude oil ceiling prices during the period January 1977–July 1977 to achieve compliance with the composite price constraints.

Based on preliminary data for October, 1976, and other information indicating a further decline in the percentage of lower tier crude oil (which automatically increases the actual composite price for crude oil), FEA has, as noted above, determined that, consistent with statutory composite price limitations, the following actions should be taken with respect to domestic crude oil produced and sold during the months of January through March, 1977: (1) Reduction of upper tier price ceilings by 20 cents per barrel, and (2) Continuation of the current freeze with respect to lower tier ceiling price levels. These actions are reflected in Price Schedule No. 5, issued today, effective January 1, 1977.

C. Basis for Today's Action

In its notice of proposed rulemaking in this matter, FEA presented the following table (Table V) indicating the extent to which actual composite prices had exceeded the statutory composite price based on preliminary data for September, 1976;

Month	Lower tier percent	Lower tier price	Upper tier price	Statutory composite price	Actual composite price	Cumulative excess receipts (millions)
February	56.12	$5.05	$11.48	$7.66	$7.87	$49
March	56.93	5.07	11.39	7.72	7.79	67
April	56.69	5.07	11.52	7.78	7.86	86
May	57.04	5.13	11.55	7.84	7.89	97
June	55.92	5.15	11.60	[1] 7.88	7.99	123
July	55.58	5.19	11.60	[1] 7.93	8.04	152
August [2]	55.68	5.18	11.62	[1] 7.98	8.03	164
September [2]	53.40	5.16	11.65	[1] 8.04	[3] 8.18	197

[1] Reduced from original projected figures (see table I) of $7.91 for June, $7.97 for July, $8.03 for August, and $8.09 for September, due to reduction in annual rate of increase from 9.8 pct to 6.5 pct (reflecting decline in rate of inflation from 6.8 pct to 3.5 pct) applicable to June, July, and Aug. 1–13. Pursuant to secs. 122 and 124 of the ECPA, a full 10-pct annual rate of increase is used for Aug. 14–31 and the month of September. The average rate of increase for August is 8.52 pct.

[2] Preliminary.

[3] Includes prices for stripper well crude oil production at an imputed value of $11.63 per barrel in accordance with sec. 121 of the ECPA.

In commenting on Table V, FEA indicated that the decline of about 2.28 percentage points in the percentage of lower tier crude oil between August and September, 1976, contributed to a 15 cents per barrel increase in the actual composite price between August and September and a $33 million increase in excess revenues for September. FEA attributed this decline in the percentage of lower tier crude oil to the following factors in the proportions indicated:

Change in definition of "stripper well property".	0.5 to 1.0.
Normal decline in lower tier production.	0.2.
Change in definition of "property".	1.0 to 1.5.

Based on preliminary data now available for October, 1976, the decline in the percentage of lower tier crude oil appears to have increased from 2.28 percentage points between August and September (preliminary) to about 3.2 percentage points between August and October. The further increase in this decline appears to be largely attributable to the change in the definition of "property" effective September 1, 1976, which, due apparently to the complexity of calculations relating to this subject, was not fully reflected in actual price data for September. An FEA survey of major crude oil producers indicates that the amendment to the "property" definition should be fully reflected by a further shift of 0.5 percentage points, which is expected in November, 1976.

If final data confirm this anticipated shift, excess receipts are projected to total about $270 million by the end of December, 1976, compared with about $200 million of excess receipts by the end of September, 1976.

Based on the data now available and on FEA projections concerning cumulative excess receipts, FEA has therefore decided to continue the current freeze on crude oil ceiling prices and to reduce the upper tier ceiling price by 20 cents per barrel. Consequently, within the framework of the second option originally proposed (noted in Section B, above), FEA in today's action has provided for a reduction in upper tier ceiling prices of 20 cents per barrel applicable to crude oil produced and sold in the months of January through March, 1977, while maintaining the current freeze on lower tier price ceilings until March 31, 1977. These actions are reflected in Price Schedule No. 5, issued today pursuant to § 212.77 as an appendix to 10 CFR Part 212, Subpart D.

As also noted above, this corrective action is taken with respect to the first three months of 1977 only, since section 8(f) of the EPAA affords an opportunity for full Congressional review of the operation of the crude oil pricing policy of section 8 of the EPAA and its effect on domestic production. In the event, however, that no change in that policy were to result from that review, an extension of the ceiling price levels provided for in today's action would, based on current projections, serve to eliminate all cumulative excess receipts by July 31, 1977.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 212 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below, effective January 1, 1977.

Issued in Washington, D.C., December 31, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

1. Subpart D of Part 212 is amended to add an Appendix to read as follows:

APPENDIX.—*Schedule No. 5 of monthly price adjustments, Effective Jan. 1, 1977*

Month	Lower tier May 15, 1975, posted price [1] (plus)	Upper tier Sept. 30, 1975, posted price [2] (less)
February 1976	1.35	1.32
March	1.38	1.25
April	1.41	1.18
May	1.45	1.11
June	1.48	1.05
July	1.48	1.05
August	1.48	1.05
September	1.48	1.05
October	1.48	1.05
November	1.48	1.05
December	1.48	1.05
January 1977	1.48	1.25
February	1.48	1.25
March	1.48	1.25

[1] The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).
[2] The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Federal Energy Administration on December 31, 1976, pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February through December, 1976, as determined under 10 CFR 212.73, 212.74, and 212.77, and holds the lower tier price ceilings applicable to crude oil to be produced and sold in the months of January through March, 1977, at the ceiling price level for the months of June–December, 1976, consistent with statutory composite price requirements. As the schedule indicates, consistent with statutory composite price limitations, a temporary reduction is also made in upper tier ceiling prices below the level of June–December, 1976.

This schedule is effective only through March 31, 1977. Price ceilings for subsequent months will be provided by Schedule No. 6, to be issued no later than March 31, 1977. This schedule may, however, be superseded prior to March, 1977, by early issuance of Schedule No. 6 to reflect further ceiling price adjustments based on unanticipated trends in actual composite price levels.

NOTE.—The footnote reference to the lower tier ceiling price rule has been corrected to include a reference to the rule for Alaska and California, which was inadvertently not included when that rule was adopted, effective October 1, 1976.

[FR Doc.77-408 Filed 1-3-77;10:26 am]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 704—CORPORATE CENTRAL FEDERAL CREDIT UNIONS

Establishment of Part

On pages 41725 and 41726 of the September 23, 1976, edition of the FEDERAL REGISTER (41 FR 41725 and 41726), there was published a proposal to establish 12 CFR Part 704.

The proposed regulation recognized that a central Federal credit union that is operated for the primary purpose of serving corporate accounts should be classified as a corporate central Federal credit union (CCFCU), as that term is defined in the regulation, and that the reserving requirements for a CCFCU should be modified to more accurately reflect the lower risk involved in granting loans to corporate accounts, i.e., loans to credit unions. The proposed regulation established a reserving requirement for a CCFCU which differed from that delineated in § 702.2 (12 CFR 700.1), and by creating a "corporate central reserve" (CCR). A CCFCU will be required to transfer to the regular reserve amounts as set forth in § 702.2 (12 CFR 702.2), except that in computing the amount that must be maintained in the regular reserve pursuant to § 702.2 (12 CFR 702.2), loans made to credit unions by a CCFCU under authority of sections 107(5) and 107(8)(A) of the Act (12 U.S.C. 1757 (5) and (8)(A)) will now be classified in the same category as loans presently made to other credit unions under authority of section 107 (8)(C) of the Act (12 U.S.C. 1757 (8)(C)), that is, as nonrisk assets. To cover any potential loss on loans to corporate accounts, a CCFCU would be required to establish and maintain a CCR as set forth below.

Interested persons were given until November 16, 1976, to submit written comments, suggestions, or objections regarding the proposed regulation.

After consideration of all such relevant matter presented by interested persons, proposed Part 704 is adopted as set forth below, effective immediately.

C. AUSTIN MONTGOMERY,
Administrator.

JANUARY 3, 1977.

Sec.
704.0 Scope.
704.1 Definitions.
704.2 Corporate Central Reserve.

AUTHORITY: Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1014 (12 U.S.C. 1789).

§ 704.0 Scope.

Part 702 of this chapter sets forth the reserving requirements for Federal credit unions. As concerns corporate central Federal credit unions, this Part modifies the existing regular reserve structure by eliminating from outstanding loans and risk assets, when computing the amount that must be maintained in the regular reserve, loans to member credit unions (loans to other credit unions are presently excepted from risk assets by § 700.1(j)(4)), and by creating a corporate central reserve.

§ 704.1 Definitions.

(a) "Corporate central Federal credit union" means a Federal credit union operated for the primary purpose of serving corporate accounts. A Federal credit union will be deemed to be a corporate central Federal credit union when its total dollar amount of outstanding corporate loans plus corporate shareholdings is equal to or in excess of 75 per centum of its total outstanding loans plus shareholdings.

(b) Risk assets of a corporate central Federal credit union shall be as defined in § 700.1 of this chapter, except, however, loans made under authority of sections 107(5) and 107(8)(A) of the Act by a CCFCU to credit unions shall not be considered risk assets.

§ 704.2 Corporate Central Reserve.

(a) In addition to the Regular Reserve required by § 702.2 of this chapter, a corporate central Federal credit union shall establish and maintain a Corporate Central Reserve as described in this section.

(b) Immediately before the payment of each dividend, the treasurer shall determine the gross earnings, as defined in § 702.2 of this chapter, of the corporate central Federal credit union. From this amount there shall be transferred to a reserve to be known as the Corporate Central Reserve, as of the end of each dividend period, 2 per centum of gross earnings until the Corporate Central Reserve shall equal 1½ per centum of the corporate central Federal credit union's total assets.

(c) Whenever the Corporate Central Reserve falls below 1½ per centum of total assets it shall be replenished by regular transfers of 2 per centum of gross earnings or by contributions in such amounts as may be needed to maintain the Corporate Central Reserve at 1½ per centum of total assets, whichever is less.

(d) Charges may be made against the Corporate Central Reserve to the same extent and in the same manner as those permitted to be made against the Regular Reserve pursuant to § 702.2 of this chapter. No other charges shall be made against the Corporate Central Reserve except as may be authorized in writing by the Administrator or his designee.

[FR Doc.77-556 Filed 1-6-77;8:45 am]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 614—UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEN

New Schedule of Remuneration

On December 3, 1976, a document was published in the FEDERAL REGISTER (41 FR 53048), proposing to amend 20 CFR 614.19, which prescribes the schedule used in computing Federal wages of ex-servicemen and ex-servicewomen covered under the program of Unemployment Compensation for Ex-servicemen (UCX program) established by Subchapter II of Chapter 85 of Title 5, United States Code (5 U.S.C. 8521–8525). Effective as of October 1, 1976, rates of monthly basic pay for members of the uniformed services were adjusted upward by Executive Order 11941 (41 FR 43889). The proposal published on December 3, 1976, would make corresponding adjustments in the schedule in 20 CFR 614.19.

A 30-day comment period was included in the proposal. No comments were received.

The new schedule of remuneration is hereby made applicable to all first claims under the UCX program which are filed after December 31, 1976. The purpose is to regularize the effective dates of new schedules of remuneration, which are issued annually to implement pay raises for members of the uniformed services. By making the new schedule effective at the beginning of the year, administration of the UCX program will be stabilized and the result will be fairer to claimants. While this necessitates making the new schedule effective this time in less than 30 days after it is published in the FEDERAL REGISTER, the reasons given for making the new schedule effective at the beginning of 1977 are believed to be overriding.

Accordingly, for the above reasons, I find that there is good cause for making this change effective January 1, 1977. Therefore, the amendments to 20 CFR 614.19 are published without change from the form proposed, except for a correction in the FEDERAL REGISTER citation in 20 CFR 614.19(b).

Effective date: January 1, 1977.

Signed at Washington, D.C., on January 4, 1977.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

Section 614.19 of Chapter V of Title 20, Code of Federal Regulations, is amended to read as follows:

§ 614.19 Schedule of remuneration.

(a) The following schedule of remuneration is issued pursuant to 5 U.S.C. 8521(a)(2), and shall apply to first claims which are filed after December 31, 1976:

Pay grade:	*Monthly rate*
(1) Commissioned officers:	
O–10	$4,088
O–9	4,086
O–8	4,072
O–7	3,587
O–6	2,982
O–5	2,454
O–4	2,021
O–3 *	1,693
O–2	1,354
O–1	997
(2) Warrant officers:	
W–4	1,936
W–3	1,616
W–2	1,316
W–1	1,173
(3) Enlisted personnel:	
E–9	1,658
E–8	1,410
E–7	1,224
E–6	1,049
E–5	885
E–4	749
E–3	669
E–2	622
E–1	572

(b) The deletion from paragraph (a) of this section of the schedule of remuneration published at 41 FR 16987, which was applicable prior to the effective date of the new schedule of remuneration set forth in paragraph (a) of this section, does not revoke the prior schedule or any preceding schedule or change the periods of time they were in effect.

(5 U.S.C. 8508, 8521(a)(2); Secretary's Order No. 4–75 (40 FR 18515).)

[FR Doc.77–656 Filed 1–6–77;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

[Docket No. 76N–0414]

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Subpart D—Public Hearing Before A Public Advisory Committee

ESTABLISHMENT OF PROCEDURES

Correction

In FR Doc. 76–34666 appearing at page 52148 in the issue of Friday, November 26, 1976 the following corrections should be made:

1. On page 52156, third column, the bold face section designated "§ 2.30" should read "§ 2.308".

2. On page 52163, third column, in § 2.340(c)(13)(ii) between the first and second line from the bottom insert the words "available data concerning safety and ef-".

3. On page 52167, middle column, in § 2.371(f), the ninth to twelfth lines should read "provisions of Part 4 of this chapter and the regulations referenced therein. The provisions of §§ 314.14, 431.71, and 601.51 of this chapter shall determine whether,".

[Docket No. 76N–0365]

PART 8—COLOR ADDITIVES

Provisional Regulations

POSTPONEMENT OF CLOSING DATES

The Commissioner of Food and Drugs, on his own initiative, is postponing the closing date for the use of 52 provisionally listed color additives until January 31, 1977. This order is effective December 30, 1976.

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 5.1), 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, December 31, 1976, established by a regulation published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41856), was based upon the Commissioner's conclusion that postponement until December 31, 1976, was 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 (21 U.S.C. 376).

In the FEDERAL REGISTER of September 23, 1976 (41 FR 41860), the Commissioner proposed to postpone further the closing date for the use of 52 provisionally listed color additives. In the preamble to that proposal, the Commissioner set forth his tentative conclusions with respect to listing or provisional listing for each of those color additives and a precise timetable for accomplishing the various actions described. The postponement of the closing date until January 31, 1977, accomplished by this order, is necessary to provide a brief additional period of time to complete scientific and legal review of the comments received on the September 23, 1976 proposal.

Because of the shortness of time until the December 31, 1976, closing date, the Commissioner concludes that notice and public procedure on this regulation are impracticable and contrary to the public interest and that good cause exists for issuing this postponement as a final order. The regulation, to be effective on December 30, 1976 will permit the uninterrupted use of the affected color

additives. Therefore, in accordance with 5 U.S.C. 553(b)(B), and (d)(1) and (3), this postponement is issued as a final regulation and is being made effective on December 30, 1976.

Nothing in this action affects the Commissioner's authority under the transitional proivsions 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.

(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 the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262))

Part 8 is amended as follows:

§ 8.501 [Amended]

In § 8.501 *Provisional lists of color additives*, the closing dates for the color additives listed in paragraphs (a), (b), (c), (f), and (g) are changed to read "January 31, 1977."

Effective date. This order shall become effective on December 30, 1976.

(Sec. 203(a)(2), (d)(1), Title II Pub. L. 86-618; 74 Stat. 404-405 (21 U.S.C. 376 note).)

Dated: December 29, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.76-38490 Filed 12-30-76;11:27 am]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

[Docket No. 75F-0362]

PART 121—FOOD ADDITIVES

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

ACRYLONITRILE/STYRENE COPOLYMER

The Food and Drug Administration is amending the food additive regulations to provide for the use of a new acrylonitrile/styrene copolymer in contact with food, except for use as a bottle for alcoholic beverages and carbonated beverages; effective January 7, 1977; objections by February 7, 1977.

A notice published in the FEDERAL REGISTER of January 19, 1976 (41 FR 2663) announced that a petition (FAP 6B3121) had been filed by Dow Chemical U.S.A., P.O. Box 1706, Midland, MI 48640, proposing that § 121.2629 *Acrylonitrile/styrene copolymer* (21 CFR 121.2629) be amended to provide for the safe use of an additional acrylonitrile/styrene copolymer produced by polymerization of 45–65 parts by weight of acrylonitrile and intended to contact all foods. The petitioner subsequently amended the petition to delete the coverage requested for use as a bottle for alcoholic and carbonated beverages.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 121.2629 should be amended as set forth below.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348 (c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Part 121 is amended in § 121.2629 by adding a new acrylonitrile/styrene copolymer and revising the section to read as follows:

§ 121.2629 Acrylonitrile/styrene copolymer.

Acrylonitrile/styrene copolymers identified in this section may be safely used as a component of packaging materials subject to the provisions of this section.

(a) *Identity.* For the purposes of this section acrylonitrile/styrene copolymers are basic copolymers meeting the specifications prescribed in paragraph (c) of this section.

(b) *Adjuvants.* (1) The copolymers identified in paragraph (c) of this section may contain adjuvant substances required in their production, with the exception that they shall not contain mercaptans or other substances which form reversible complexes with acrylonitrile monomer. Permissible adjuvants may include substances generally recognized as safe in food, substances used in accordance with prior sanction, substances permitted under applicable regulations in this part, and those authorized in paragraph (b)(2) of this section.

(2) The optional adjuvants for the acrylonitrile/styrene copolymer identified in paragraph (c)(1) of this section are as follows:

Substances	*Limitation*
Condensation polymer of toluene sulfonamide and formaldeyhde.	0.15 pct. maximum.

(c) Specifications.

Acrylonitrile/styrene copolymers	Maximum residual acrylonitrile monomer content of finished article	Nitrogen content of copolymer	Maximum extractable fractions at specified temperatures and times	Conformance with certain specifications
1. Acrylonitrile/styrene copolymer consisting of the copolymer produced by polymerization of 66-72 parts by weight of acrylonitrile and 23-34 parts by weight of styrene; for use with food of type VI-B identified in table 1 of sec. 121.2526(c) under conditions of use C, D, E, F, G described in table 2 of sec. 121.2526(c).	80 parts per million*...	17.4 to 19 pct...	Total nonvolatile extractives not to exceed 0.01 milligram per square inch surface area of the food contact article when exposed to distilled water and 3 pct acetic acid for 10 d at 150° F. The extracted copolymer shall not exceed 0.001 mg/in² surface area of the food contact article when exposed to distilled water and 3 pct acetic acid for 10 d at 150° F.*	Minimum number average molecular weight is 30,000.*
2. Acrylonitrile/styrene copolymer consisting of the copolymer produced by polymerization of 45-65 parts by weight of acrylonitrile and 35-55 parts by weight of styrene; for use with food of types I, II, III, IV, V, VI (except bottles), VII, VIII, and IX identified in table 1 of sec. 121.2526(c) under conditions B (not to exceed 200° F), C, D, E, F, G described in table 2 of sec. 121.2526(c).	50 parts per million*	12.2 to 17.2 pct.	Extracted copolymer not to exceed 2.0 parts per million in aqueous extract or n-heptane extract obtained when 100-gram sample of the basic copolymer in the form of particles of a size that will pass through a U.S. Standard Sieve No. 6 and that will be held on a U.S. Standard Sieve No. 10 is extracted with 250 milliliters of deionized water or reagent grade n-heptane at reflux temperature for 2 hours.*	Minimum 10 pct solution viscosity at 25° C is 10 cP.*

*Method available from: Food and Drug Administration, Bureau of Foods, Division of Food and Color Additives (HFF-330), 200 C St. SW., Washington, D.C. 20204

(d) *Interim listing.* Acrylonitrile copolymers identified in this section shall comply with the provisions of § 121.4010.

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 7, 1977, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Six copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date: This regulation shall become effective January 7, 1977.

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

Dated: December 29, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-327 Filed 1-6-77;8:45 am]

[Docket No. 76N-0499]

PART 121—FOOD ADDITIVES

Food Additives Permitted in Food for Human Consumption or in Contact With Food on an Interim Basis Pending Additional Study

SACCHARIN AND ITS SALTS

The Food and Drug Administration (FDA) is extending the effective date of the interim food additive regulation for saccharin and its salts to authorize continued limited use of the food additives until ongoing studies are completed and evaluated. This order is effective January 7, 1977.

Saccharin and its salts (saccharin) were removed from the list of substances generally recognized as safe (GRAS) in § 121.101 (21 CFR 121.101) by an order published in the FEDERAL REGISTER of February 1, 1972 (37 FR 2437). That order also established in § 121.4001 (21 CFR 4001) an interim food additive regulation for saccharin that places limits on the use of saccharin as a sweetener in food used to reduce significantly the calorie value of certain foods. Those actions were taken because preliminary results from chronic feeding studies then being conducted by FDA and other groups suggested that saccharin might cause adverse effects. Continued limited use of saccharin was permitted based upon the conclusion of the Commissioner of Food and Drugs that such use would not involve any significant increased risk to the public health. The authority for the use of saccharin was initially due to expire on June 30, 1973.

In June 1972, FDA signed a contract with the National Academy of Sciences/National Research Council (NAS/NRC) to review the results of all experiments on the possible carcinogenicity of saccharin. A number of experiments involving saccharin were underway when FDA signed the contract with NAS/NRC in June 1972 and, as is frequently true with chronic feeding studies, no specific completion date could then be established for them. It therefore became necessary to extend the effective date of the interim food additive regulation beyond June 30, 1973 to provide time for NAS/NRC to complete its evaluation and report to FDA. The authority for the continued limited use of saccharin was extended, therefore, in § 121.4001(c), by order published in the FEDERAL REGISTER of May 25, 1973 (38 FR 13733), until such time that FDA "receives a final report and recommendations from the National Academy of Sciences Committee on Saccharin and publishes an order" based on that report. In extending the authority for limited use of saccharin, the Commissioner again concluded that continued limited use of saccharin would not involve any significant increased risk to the public health.

The NAS/NRC report was received by FDA in December 1974.[1] The report's primary conclusion was that the data then available had "not established conclusively whether saccharin is or is not carcinogenic when administered orally to test animals." The NAS/NRC recommended that several additional studies be undertaken to generate data that would permit a reasonably conclusive scientific judgment on the question of whether saccharin is a carcinogen and recommended further that the question be reconsidered when a substantial portion of the additional data became available. Specifically, NAS/NRC recommended that the following additional research on saccharin be conducted to determine whether it is carcinogenic or whether its use presents a significant increased risk to the public health:

1. Carcinogenesis study of purified contaminants of commercial saccharin, especially ortho-toluenesulfonamide (OTS);
2. Carcinogenesis study of pure saccharin;
3. Carcinogenesis study of mixtures of known amounts of saccharin and OTS;
4. Study of interaction of stones or parasites in bladder and saccharin in the diet;
5. Study of urine composition as affected by high saccharin and OTS intake in the diet;
6. Study of the significance of parenteral and in utero exposure in carcinogenesis studies;
7. Epidemiologic studies relating the incidence of cancer with long-term consumption of saccharin.

After the completion of the NAS/NRC report, and during FDA review of the report, several studies on saccharin were undertaken by the Health Protection Branch of the Department of Health and Welfare of Canada. These studies are expected to provide data that will enable FDA to make a final determination regarding the use of saccharin in food. The status of the Canadian studies is as follows:

1. Ortho-toluenesulfonamide was administered by gavage to female rats from the 1st day of pregnancy to the 21st day after parturition. After weaning, the pups were placed on diets that provided up to 250 milligrams per kilogram (mg/kg) per day of OTS, the same doses that had been administered to the dams. Histopathologic examination of the bladder and kidneys after 105 days revealed a higher incidence of bladder stones in all test groups (male and female) than the controls. On the other hand, hyperplasia was observed in only one male rat that received 100 mg/kg per day of OTS. These findings suggest that high doses of OTS may cause an increased incidence of bladder stones and possibly hyperplasia. These findings raise the question whether the adverse effects seen in test animals in earlier studies on saccharin may have been caused by OTS rather than saccharin itself. A second study, similar to the one described above, is underway in Canada to attempt to corroborate the findings of the first study.

2. A lifetime feeding study in the rat to assess the carcinogenicity and chronic toxicity of OTS and OTS-free saccharin was begun in early to mid-1974. In this study, the rats of the f_0 and f_1 generation are being exposed to OTS and OTS-free saccharin. The study is designed principally to determine the significance of in utero exposure of the test animals to OTS and OTS-free saccharin in relation to the possible induction of tumors by either substance. The test feeding for the f_0 generations was completed in September 1976; the test feeding for the f_1 generation is expected to be completed in January 1977. The Canadians estimate that 1 year will be required to compile and evaluate the data and to prepare a final report. The final report is thus expected shortly after January 1978.

The Commissioner is confident that a final determination based upon complete and up-to-date data on the safety of saccharin will be possible shortly after the final reports on the Canadian study are received by FDA. Food and Drug Administration scientists have, as the interim food additive regulation requires, maintained close contact with those persons who are conducting studies on saccharin and OTS, and they are fully informed about all developments relating to the safety of saccharin. The availability of final results from the Canadian studies, expected in a little over 1 year, will enable the agency's scientists to render a judgment on the safety of saccharian that will be legally sound and scientifically supportable.

In the Commissioner's view, allowing continued limited use of saccharin in the interim is appropriate because such use will not significantly increase the risk to the public health. Should new data become available that suggest an increased risk or make it impossible to conclude with reasonable certainty that the limited use of saccharin is safe, the Commissioner will not hesitate to take prompt action, including terminating the authority under the interim regulation for the limited use of saccharin. The Food and Drug Administration will continue to monitor closely the progress of the ongoing Canadian studies and will therefore be in a position to act expeditiously if circumstances warrant.

From time to time, FDA receives inquiries concerning the circumstances in which it is appropriate to use saccharin in food. The Commissioner therefore believes that it would be useful to reiterate the limited circumstances in which saccharin may be used in accordance with the interim food additive regulation.

The purposes of the interim regulation are to discourage general use of saccharin by consumers and to prevent an increase in saccharin usage by those persons who already consume saccharin-containing products. Under the regulation, saccharin may be used only as a substitute for nutritive sweeteners in accordance with current special dietary food regulations and policies, or for the technological purposes authorized by § 121.4001(e).

The only special dietary purpose for which sacharin may be used under § 121.4001(d) is for calorie reduction. To be used validly for calorie reduction, the food with the saccharin substitute must be significantly lower in calories than the comparable nutritionally sweetened food.

Saccharin may be combined with nutritive sweeteners to sweeten a food offered for calorie reduction only if the combination is authorized by an FDA

[1] Available from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22151. Order number PB-238-137.

regulation or statement of policy or interpretation such as in § 3.72 (21 CFR 3.72). If sweeteners (saccharin and nutritive) could be combined freely, the taste variations attainable in food would increase significantly and could result in increased use of saccharin in food, contrary to the purpose of the interim regulation. Moreover, the use of a nutritive sweetener in combination with saccharin increases the calories in a food over the amount that would be present if only saccharin were used. Because the food does not then achieve the maximum possible calorie reduction, special scrutiny is required to ensure that the food serves a need for those in calorie reduction programs.

Manufacturers who seek to use saccharin in combination with nutritive sweeteners in circumstances in which the use is not already permitted may petition FDA to issue a regulation or a statement of policy or interpretation to provide for the use of the combination. Such petitions should include information to establish (1) that it is not feasible to produce an acceptable calorie-reduced food by using saccharin alone, and (2) that the production and sale of the product containing the combination of sweeteners will not result in increased saccharin consumption by consumers.

This order merely extends the interim food additive regulation for saccharin (21 CFR 121.4001). Accordingly, inflation and environmental impact assessments are not required.

(Sec. 409(d), 72 Stat. 1787 (21 U.S.C. 348(d)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262))

Section 121.4001 is amended by revising paragraph (c) to read as follows:

§ 121.4001 Saccharin, ammonium saccharin, calcium saccharin, and sodium saccharin.

* * * * *

(c) Authority for such use shall expire when the Commissioner receives the final reports on the ongoing studies in Canada and publishes an order on the safety of saccharin and its salts based on those reports and other available data.

Effective date. This order shall become effective on January 7, 1977.

(Sec. 409(d), 72 Stat. 1781 (21 U.S.C. 348 (d)).)

Dated: December 28, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-424 Filed 1-6-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Acetyl Sulfamethoxypyridazine Oral Suspension

The Food and Drug Administration is revoking the regulation providing for use of acetyl sulfamethoxypyridazine oral suspension; effective January 7, 1977.

Elsewhere in this issue of the FEDERAL REGISTER, the Director of the Bureau of Veterinary Medicine is withdrawing approval of new animal drug application (NADA) 12-824V filed by Parke, Davis & Co., Detroit, MI 48232 for the use of acetyl sulfamethoxypyridazine oral suspension in the treatment of dogs and cats for sudfa-susceptible bacterial infections. Because approval of NADA 12-824V is being withdrawn, the corresponding regulation (21 CFR 520.2301) upon which the approval relied is hereby revoked.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.29) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262))

§ 520.2301 [Revoked]

Section 520.2301, *Acetyl sulfamethoxypyridazine oral suspension*, is hereby revoked.

Effective date. This order shall be effective January 7, 1977.

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

Dated: December 28, 1976.

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

[FR Doc.77-326 Filed 1-6-77;8:45 am]

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

Intramammary Dosage Forms

STERILE BENZATHINE CLOXACILLIN FOR INTRAMAMMARY INFUSION

The Food and Drug Administration (FDA) approves a supplemental new animal drug application (NADA 55-069V) filed by Beecham Laboratories, Division of Beecham, Inc., Bristol, TN 37620, proposing the safe and effective use of a sterile benzathine cloxacillin for intramammary infusion for prevention and treatment of mastitis in nonlactating cows, in lieu of a previously approved nonsterile product. The approval is effective January 7, 1977.

The Commissioner of Food and Drugs is amending §§ 540.814 and 540.814a (21 CFR 540.814 and 540.814a) to reflect this approval.

Approval of the NADA has not required a reevaluation or confirmation of the safety and effectiveness data underlying the original approval because approval will not increase potential risk of human exposure to drug residues. Therefore, this approval does not constitute a reaffirmation of the drug's safety and effectiveness.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262))

Part 540 is amended as follows:

1. In § 540.814 by deleting paragraph (c)(2)(ii) and (3)(ii) and designating them "reserved."

§ 540.814 Benzathine cloxacillin for intramammary infusion.

* * * * *

(c) * * *

(2) * * *

(ii) [Reserved].

(3) * * *

(ii) [Reserved].

2. In § 540.814a by revising paragraph (c) to read as follows:

§ 540.814a Sterile benzathine cloxacillin for intramammary infusion.

* * * * *

(c) *Conditions of marketing*—(1)(i) *Specifications.* The drug contains benzathine cloxacillin equivalent to 500 milligrams cloxacillin in each 6 milliliters of peanut oil vehicle, and conforms to the certification requirements of paragraph (a) of this section.

(ii) *Sponsor.* See No. 000003 in § 510.600(c) of this chapter.

(iii) *Conditions of use.* (*a*) The drug is used for treatment of mastitus caused by *Staphylococcus aureus* and *Streptococcus agalactiae* in dairy cows at the time of drying-off of the cow.

(*b*) It is administered aseptically at the rate of 6 milliliters per infected quarter immediately after last milking at the time of drying-off of the cow.

(*c*) For use in dry cows only.

(*d*) Not to be used within 30 days of calving.

(*e*) Milk taken from treated cows prior to 72 hours (6 milkings) after calving must not be used for human food.

(*f*) Animals infused with this product must not be slaughtered for food from the time of infusion until 72 hours after calving.

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

(2)(i) *Specifications.* The drug contains benzathine cloxacillin equivalent to 500 milligrams cloxacillin in each dose, and conforms to the certification requirements of paragraph (a) of this section.

(ii) *Sponsor.* See No. 000029 in § 510.600(c) of this chapter.

(iii) *Conditions of use.* (*a*) The drug is used for treatment and prophylaxis of bovine mastitis in nonlactating cows due to *Streptococcus agalactiae* and *Staphylococcus aureus.*

(*b*) It is administered at one dose per infected quarter immediately after last milking.

(*c*) For use in dry cows only.

(*d*) Not to be used within 4 weeks (28 days) of calving.

(*e*) Animals infused with this product must not be slaughtered for food use for 4 weeks (28 days) after the latest infusion.

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

Effective date. These amendments shall be effective January 7, 1977.

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

Dated: December 28, 1976.

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

[FR Doc.77-324 Filed 1-6-77;8:45 am]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Coumaphos

The Food and Drug Administration is amending the new animal drug regulation for coumaphos to clarify it; effective January 7, 1977.

The regulation for coumaphos is currently under § 558.185 (21 CFR 558.185). Before recodification, published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802), as amended in the FEDERAL REGISTER of March 3, 1976 (41 FR 9149), the section was designated under § 135e.39 (21 CFR 135e.39). The former § 135e.39(f) contained an incorrect number in the amount column of the table, and when the section was recodified, an incorrect reference was introduced into paragraph (b)(2). This document corrects the incorrect references.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)),

§ 558.185 [Amended]

Section 558.185, *Coumaphos,* is amended in paragraph (b)(2) by deleting the phrase "item 2 of the table" and by inserting in its place the phrase "paragraph (f)(1)(ii) of this section" and in paragraph (f)(1)(ii) by deleting the number "0.002" and by inserting in its place the number "0.0002."

Effective date: This amendment shall be effective on January 7, 1977.

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

Dated: December 30, 1976.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-567 Filed 1-6-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7458]

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

Qualified Joint and Survivor Annuities

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER for October 3, 1975 (40 FR 45828), amendments to the Income Tax Regulations (26 CFR Part 1) under section 401(a)(11) of the Internal Revenue Code of 1954, as added by section 1021(a)(1) of the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406, 88 Stat. 935) were proposed in order to provide rules relating to qualified joint and survivor annuities.

A public hearing regarding the proposed regulations was held on February 26, 1976, and, after consideration of comments made orally at this hearing and those submitted in writing, the text of the proposed regulations has been revised in several respects.

In addition to several substantive changes described below, the organization of §1.401(a)-11 has been substantially revised with a view to making it more readable.

In general, section 401(a)(11) of the Code requires as a condition for qualification of a trust under section 401 that, if a plan of which such trust is a part provides for the payment of benefits in the form of an annuity, the plan must provide for the payment of such benefits in the form of a qualified joint and survivor annuity in accordance with the provisions of such section 401(a)(11).

The final regulations, like the proposed regulations, take the position that statutory joint and survivor requirements are applicable not only to defined benefit plans, but also to defined contribution (e.g., profit-sharing) plans which provide an optional life annuity form for payment of benefits. However, the final regulations specifically provide in § 1.401(a)-11(c)(2)(i)(G)(2) that defined contribution plans need not make available an election to receive an "early survivor annuity" if the plan provides a survivor benefit at least equal in value to the vested portion of the participant's account balance.

Section 1.401(a)-11(a) sets forth this general rule with respect to any form of life annuity. The proposed regulations described a "life annuity" as an annuity that provides retirement or disability payments and requires the survival of the participant or his spouse as one of the conditions for any payment or possible payment under the annuity. The final regulations (§ 1.401(a)-11(b)(1)) further define the term "life annuity" to exclude ancillary benefits which are not treated as normal retirement benefits for vesting purposes under section 411(a)(9).

The general rule contained in § 1.401(a)-11(a)(1) has been substantially revised from that of the proposed regulations. It describes three plan provisions some or all of which are necessary for qualification. First, in accordance with section 401(a)(11)(A) and (B), the plan must provide that any participant is entitled to receive any benefits available to him in a form having the effect of a qualified joint and survivor annuity (as defined in § 1.401(a)-11(b)(2) and Code section 401(a)(11)(G)(iii)) if he: (1) Begins to receive payments under a plan on or after normal retirement age, (2) dies on or after the normal retirement age while still working for the employer, (3) begins to receive payments under a plan which provides for payment of benefits before the normal retirement age on or after the qualified early retirement age (as defined in § 1.401(a)-11(b)(4)), or (4) separates from service on or after the date the normal retirement age (or the qualified early retirement age) is attained without having made an election (as described in paragraph (c)(1) of this section) not to receive such benefits in the form of a qualified joint and survivor annuity, and after satisfaction of eligibility requirements for the payment of benefits under the plan (except for any plan requirement that there be filed a claim for benefits) and thereafter dies before beginning to receive such benefits.

In response to a question presented by several comments on the proposed regulations, § 1.401(a)-11(a)(2) makes it clear that a plan will not fail to satisfy the joint and survivor annuity requirements merely because it provides that, if the present value of the entire nonforfeitable benefit of a participant derived from employer contributions at the time of his separation from service does not exceed $1,750 (or such smaller amount as the plan may specify), the benefit will be paid to him in a lump sum. This provision solves a possible conflict between the joint and survivor annuity requirements and section 411(a)(7)(B)(i) of the Code (relating to minimum vesting requirements).

The term "qualified early retirement age" is defined by § 1.401(a)-11(b)(4) to mean the latest of (1) the earliest date, under the plan, on which the participant could elect to receive retirement benefits, (2) the first day of the 120th month beginning before the participant reaches normal retirement age, or (3) the date on which the participant begins participation. "Normal retirement age" has the meaning set forth in section 411(a)(8).

With respect to a plan which provides for payment of benefits before the normal retirement age, the requirement in the proposed regulations to provide a qualified joint and survivor annuity was significantly broader in the case of a participant who begins to receive benefits under the plan prior to the qualified early retirement age. Such a participant was entitled to receive the benefits in the form of a qualified joint and survivor annuity when he attained (or would have attained) the early retirement age. The absence of this requirement in the final regulations is expected to facilitate the administration of plans.

Secondly, in accordance with section 401(a)(11)(E), the plan must allow a participant to elect not to receive benefits in the form of a qualified joint and survivor annuity. Third, in accordance with section 401(a)(11)(C), plans that provide for the payment of benefits before the normal retirement age must also provide that participants may elect payment of an early survivor annuity (as defined in § 1.401(a)-11(b)(3)) should they die while in the active service of an employer after attaining the qualified early retirement age.

Section 1.401(a)–11(c)(1)(ii)(B) has a rule concerning the making of elections by participants who retired after the joint and survivor annuity requirements became effective but before regulations were issued.

Section 1.401(a)–11(c)(1) describes the election which all plans must offer, the election not to take benefits in the form of a qualified joint and survivor annuity. Section 1.401(a)–11(c)(2) describes the election which those plans which provide for the payment of benefits before normal retirement age must offer, the election to have an early survivor annuity.

Section 1.401(a)–11(c)(4) requires the plan to allow a participant to revoke any election made and make another election during the specified election period. Section 1.401(a)–11(c)(5) allows a plan to permit a surviving spouse to elect to have benefits paid in a form other than a survivor annuity. If a plan contains such an option, the plan administrator must furnish to the spouse upon his or her written request a written explanation in non-technical language of the survivor annuity and any other form of payment which may be elected.

Additional permissible plan provisions are set forth in § 1.401(a)–11(d). Among other things, a plan may provide that, as a condition precedent to the payment of benefits, a participant must express in writing to the plan administrator the form in which he prefers benefits to be paid and provide all information reasonably necessary for the payment of benefits. This paragraph also clarifies the rules relating to permissible marriage requirements.

Section 1.401(a)–11(e) explains the treatment by the plan of the costs of providing qualified joint and survivor annuity or early survivor annuity benefits. In response to questions presented in comments on the proposed regulations, the final regulations provide that a plan may take into account in any equitable manner consistent with generally accepted actuarial principles applied on a consistent basis any increased costs resulting from providing such benefits. A plan may give a participant the option of paying premiums only if it provides another option under which an out-of-pocket expense by the participant is not required.

These regulations supersede temporary regulations § 11.401(a)–11, published in the FEDERAL REGISTER for October 3, 1975 (40 FR 45810).

ADOPTION OF AMENDMENTS TO THE REGULATIONS

On October 3, 1975, notice of proposed rulemaking with respect to amendments of the Income Tax Regulations (26 CFR Part 1) under section 401(a)(11) of the Internal Revenue Code of 1954, as added by section 1021(a)(1) of the Employee Retirement Income Security Act of 1974 (Pub. L. 93–406, 88 Stat. 935), was published in the FEDERAL REGISTER (40 FR 45828). A public hearing regarding this notice of proposed rulemaking was held on February 26, 1976, and, after consideration of all such relevant matter as was presented by interested persons regarding the proposed rules, certain revisions in § 1.401(a)–11 as proposed have been made. Section 1.401(a)–11 of these regulations supersedes § 11.401(a)–11 of the Temporary Income Tax Regulations under the Employee Retirement Income Security Act of 1974 (26 CFR Part 11). Section 1.401(a) (adopted without change) and § 1.401(a)–11, revised as set forth below, are adopted and inserted immediately after § 401–14.

§ 1.401(a) Statutory provisions; requirements for qualification.

SEC. 401. *Qualified pension, profit-sharing, and stock bonus plans*—(a) *Requirements for qualification.* A trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall constitute a qualified trust under this section—

(1) If contributions are made to the trust by such employer, or employees, or both, or by another employer who is entitled to deduct his contributions under section 404(a)(3)(B) (relating to deduction for contributions to profit-sharing and stock bonus plans), for the purpose of distributing to such employees or their beneficiaries the corpus and income of the fund accumulated by the trust in accordance with such plan;

(2) If under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees or their beneficiaries;

(3) If the plan of which such trust is a part satisfies the requirements of section 410 (relating to minimum participation standards); and

(4) If the contributions or benefits provided under the plan do not discriminate in favor of employees who are—

(A) Officers,

(B) Shareholders, or

(C) Highly compensated.

For purposes of this paragraph, there shall be excluded from consideration employees described in section 410(b)(2)(A) and (C).

(5) A classification shall not be considered discriminatory within the meaning of paragraph (4) of section 410(b) (without regard to paragraph (1)(A) thereof) merely because it excludes employees the whole of whose remuneration constitutes "wages" under section 3121(a)(1) (relating to the Federal Insurance Contributions Act) or merely because it is limited to salaried or clerical employees. Neither shall a plan be considered discriminatory within the meaning of such provisions merely because the contributions or benefits of or on behalf of the employees under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, or merely because the contributions or benefits based on that part of an employee's remuneration which is excluded from "wages" by section 3121(a)(1) differ from the contributions or benefits based on employee's remuneration not so excluded, or differ because of any retirement benefits created under State or Federal law. For purposes of this paragraph and paragraph (10), the total compensation of an individual who is an employee within the meaning of subsection (c)(1) means such individual's earned income (as defined in subsection (c)(2)), and the basic or regular rate of compensation of such an individual shall be determined, under regulations prescribed by the Secretary or his delegate, with respect to that portion of his earned income which bears the same ratio to his earned income as the basic or regular compensation of the employees under the plan bears to the total compensation of such employees. For purposes of determining whether two or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan, if the amount of contributions on behalf of the employees allowed as a deduction under section 404 for the taxable year with respect to such plans, taken together, bears a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, the plans shall not be considered discriminatory merely because the rights of employees to, or derived from, the employer contributions under the separate plans do not become nonforfeitable at the same rate. For the purposes of determining whether two or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan, if the employees' rights to benefits under the separate plans do not become nonforfeitable at the same rate, but the levels of benefits provided by the separate plans satisfy the requirements of regulations prescribed by the Secretary or his delegate to take account of the differences in such rates, the plans shall not be considered discriminatory merely because of the differences in such rates.

(6) A plan shall be considered as meeting the requirements of paragraph (3) during the whole of any taxable year of the plan if on one day in each quarter it satisfied such requirements.

(7) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part satisfies the requirements of section 411 (relating to minimum vesting standards).

(8) A trust forming part of a pension plan shall not constitute a qualified trust under this section unless the plan provides that forfeitures must not be applied to increase the benefits any employee would otherwise receive under the plan.

(9) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of subsection (c)(1), a trust forming part of such plan shall not constitute a qualified trust under this section unless, under the plan, the entire interest of each employee—

(A) Either will be distributed to him not later than his taxable year in which he attains the age of 70½ years, or, in the case of an employee other than an owner-employee (as defined in subsection (c)(3)), in which he retires, whichever is the later, or

(B) Will be distributed, commencing not later than such taxable year, (i) in accordance with regulations prescribed by the Secretary or his delegate, over the life of such employee or over the lives of such employee and his spouse, or (ii) in accordance with such regulations, over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and his spouse.

A trust shall not be disqualified under this paragraph by reason of distributions under a designation, prior to the date of the enactment of this paragraph, by any employee under the plan of which such trust is a part, of a method of distribution which does not meet the terms of the preceding sentence.

(10) In the case of a plan which provides contributions or benefits for employees some

or all of whom are owner-employees (as defined in subsection (c)(3))—

(A) Paragraph (3), the first and second sentences of paragraph (5), and section 410 shall not apply, but—

(i) Such plan shall not be considered discriminatory within the meaning of paragraph (4) merely because the contributions or benefits of or on behalf of employees under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, and

(ii) Such plan shall not be considered discriminatory within the meaning of paragraph (4) solely because under the plan contributions described in subsection (e) which are in excess of the amounts which may be deducted under section 404 for the taxable year may be made on behalf of any owner-employee; and

(B) A trust forming a part of such plan shall constitute a qualified trust under this section only if the requirements in subsection (d) are also met.

(11)(A) A trust shall not constitute a qualified trust under this section if the plan of which such trust is a part provides for the payment of benefits in the form of an annuity unless such plan provides for the payment of annuity benefits in a form having the effect of a qualified joint and survivor annuity.

(B) Notwithstanding the provisions of subparagraph (A), in the case of a plan which provides for the payment of benefits before the normal retirement age (as defined in section 411(a)(8)), the plan is not required to provide for the payment of annuity benefits in a form having the effect of a qualified joint and survivor annuity during the period beginning on the date on which the employee enters into the plan as a participant and ending on the later of—

(i) The date the employee reaches the earliest retirement age under the plan, or

(ii) The first day of the 120th month beginning before the date on which the employee reaches normal retirement age.

(C) A plan described in subparagraph (B) does not meet the requirements of subparagraph (A) unless, under the plan, a participant has a reasonable period during which he may elect the qualified joint and survivor annuity form with respect to the period beginning on the date on which the period described in subparagraph (B) ends and ending on the date on which he reaches normal retirement age (as defined in section 411(a)(8)) if he continues his employment during that period. A plan does not meet the requirements of this subparagraph unless, in the case of such an election, the payments under the survivor annuity are not less than the payments which would have been made under the joint annuity to which the participant would have been entitled if he made an election described in this subparagraph immediately prior to his retirement and if his retirement had occurred on the day before his death and within the period within which an election can be made.

(D) A plan shall not be treated as not satisfying the requirements of this paragraph solely because the spouse of the participant is not entitled to receive a survivor annuity (whether or not an election described in subparagraph (C) has been made under subparagraph (C)) unless the participant and his spouse have been married throughout the 1-year period ending on the date of such participant's death.

(E) A plan shall not be treated as satisfying the requirements of this paragraph unless, under the plan, each participant has a reasonable period (as described by the Secretary or his delegate by regulations) before the annuity starting date during which he may elect in writing (after having received a written explanation of the terms and conditions of the joint and survivor annuity and the effect of an election under this subparagraph) not to take such joint and survivor annuity.

(F) A plan shall not be treated as not satisfying the requirements of this paragraph solely because under the plan there is a provision that any election described in subparagraph (C) or (E), and any revocation of any such election, does not become effective (or ceases to be effective) if the participant dies within a period (not in excess of 2 years) beginning on the date of such election or revocation, as the case may be. The preceding sentence does not apply unless the plan provision described in the preceding sentence also provides that such an election or revocation will be given effect in any case in which—

(i) The participant dies from accidental causes,

(ii) A failure to give effect to the election or revocation would deprive the participant's survivor of a survivor annuity, and

(iii) Such election or revocation is made before such accident occurred.

(G) For purposes of this paragraph—

(i) The term "annuity starting date" means the first day of the first period for which an amount is received as an annuity (whether by reason of retirement or by reason of disability),

(ii) The term "earliest retirement age" means the earliest date on which, under the plan, the participant could elect to receive retirement benefits, and

(iii) The term "qualified joint and survivor annuity" means an annuity for the life of the participant with a survivor annuity for the life of his spouse which is not less than one-half of, or greater than, the amount of the annuity payable during the joint lives of the participant and his spouse and which is the actuarial equivalent of a single life annuity for the life of the participant.

For purposes of this paragraph, a plan may take into account in any equitable manner (as determined by the Secretary or his delegate) any increased costs resulting from providing joint and survivor annuity benefits.

(H) This paragraph shall apply only if—

(i) The annuity starting date did not occur before the effective date of this paragraph, and

(ii) The participant was an active participant in the plan on or after such effective date.

(12) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that in the case of any merger or consolidation with, or transfer of assets or liabilities to, any other plan after the date of the enactment of the Employee Retirement Income Security Act of 1974, each participant in the plan would (if the plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if the plan had then terminated). This paragraph shall apply in the case of a multiemployer plan only to the extent determined by the Pension Benefit Guaranty Corporation.

(13) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that benefits provided under the plan may not be assigned or alienated. For purposes of the preceding sentence, there shall not be taken into account any voluntary and revocable assignment of not to exceed 10 percent of any benefit payment made by any participant who is receiving benefits under the plan unless the assignment or alienation is made for purposes of defraying plan administration costs. For purposes of this paragraph a loan made to a participant or beneficiary shall not be treated as an assignment or alienation if such loan is secured by the participant's accrued nonforfeitable benefit and is exempt from the tax imposed by section 4975 (relating to tax on prohibited transactions) by reason of section 4975(d)(1). This paragraph shall take effect on January 1, 1976 and shall not apply to assignments which were irrevocable on the date of the enactment of the Employee Retirement Income Security Act of 1974.

(14) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that, unless the participant otherwise elects, the payment of benefits under the plan to the participant will begin not later than the 60th day after the latest of the close of the plan year in which—

(A) The date on which the participant attains the earlier of age 65 or the normal retirement age specified under the plan,

(B) Occurs the 10th anniversary of the year in which the participant commenced participation in the plan, or

(C) The participant terminates his service with the employer.

In the case of a plan which provides for the payment of an early retirement benefit, a trust forming a part of such plan shall not constitute a qualified trust under this section unless a participant who satisfied the service requirements for such early retirement benefit, but separated from the service (with any nonforfeitable right to an accrued benefit) before satisfying the age requirement for such early retirement benefit, is entitled upon satisfaction of such age requirement to receive a benefit not less than the benefit to which he would be entitled at the normal retirement age, actuarially, reduced under regulations prescribed by the Secretary or his delegate.

(15) A trust shall not constitute a qualified trust under this section unless under the plan of which such trust is a part—

(A) In the case of a participant or beneficiary who is receiving benefits under such plan, or

(B) In the case of a participant who is separated from the service and who has nonforfeitable rights to benefits,

such benefits are not decreased by reason of any increase in the benefit levels payable under title II of the Social Security Act or any increase in the wage base under such title II, if such increase takes place after the date of the enactment of the Employee Retirement Income Security Act of 1974 or (if later) the earlier of the date of first receipt of such benefits or the date of such separation, as the case may be.

(16) A trust shall not constitute a qualified trust under this section if the plan of which such trust is a part provides for benefits or contributions which exceed the limitations of section 415.

(17) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of subsection (c)(1) or are shareholder-employees within the meaning of section 1379(d), only if the annual compensation of each employee taken into account under the plan does not exceed the first $100,000 of such compensation.

(18) In the case of a trust which is part of a plan providing a defined benefit for employees some or all of whom are employees within the meaning of subsection (c)(1), or are shareholder-employees within the

meaning of section 1379(d), only if such plan satisfies the requirements of subsection (j).

(19) A trust shall not constitute a qualified trust under this section if under the plan of which such trust is a part any part of a participant's accrued benefit derived from employer contributions (whether or not otherwise nonforfeitable), is forfeitable solely because of withdrawal by such participant of any amount attributable to the benefit derived from contributions made by such participant. The preceding sentence shall not apply to the accrued benefit of any participant unless, at the time of such withdrawal, such participant has a nonforfeitable right to at least 50 percent of such accrued benefit (as determined under section 411). The first sentence of this paragraph shall not apply to the extent that an accrued benefit is permitted to be forfeited in accordance with section 411(a)(3)(D)(iii) (relating to proportional forfeitures of benefits accrued before enactment of the Employee Retirement Income Security Act of 1974, in the event of withdrawal of certain mandatory contributions).

Paragraphs (11), (12), (13), (14), (15), and (19) shall apply only in the case of a plan to which section 411 (relating to minimum vesting standards) applies without regard to subsection (e)(2) of such section.

[Sec. 401(a) as amended by sec. 2, Self-Employed Individuals Tax Retirement Act, 1962 (76 Stat. 809); sec. 204(b)(1)(A), Act of Nov. 13, 1966 (Pub. L. 89-809, 80 Stat. 1577); by secs. 1012(b), 1016(a)(2), 1021, 1022(a), (b)(1), 2001(c), (d)(1), 2001(e)(4), 2004(a)(1), Employee Retirement Income Security Act, 1974 (88 Stat. 913, 929, 935, 938, 939, 952, 953, 955, 979)]

§ 1.401(a)-11 Qualified joint and survivor annuities.

(a) *General rule*—(1) *Required provisions.* A trust, to which section 411 (relating to minimum vesting standards) applies without regard to section 411(e)(2), which is a part of a plan providing for the payment of benefits in any form of a life annuity (as defined in paragraph (b)(1) of this section), shall not constitute a qualified trust under section 401(a)(11) and this section unless such plan provides that:

(i) Unless the election provided in paragraph (c)(1) of this section has been made, such benefits will be paid in a form having the effect of a qualified joint and survivor annuity (as defined in paragraph (b)(2) of this section) with respect to any participant who—

(A) Begins to receive payments under such plan on or after the date the normal retirement age is attained, or

(B) Dies (on or after the date the normal retirement age is attained) while in active service of the employer maintaining the plan, or

(C) In the case of a plan which provides for the payment of benefits before the normal retirement age, begins to receive payments under such plan on or after the date the qualified early retirement age (as defined in paragraph (b)(4) of this section) is attained, or

(D) Separates from service on or after the date the normal retirement age (or the qualified early retirement age) is attained and after satisfaction of eligibility requirements for the payment of benefits under the plan (except for any plan requirement that there be filed a claim for benefits) and thereafter dies before beginning to receive such benefits;

(ii) Any participant may elect, as provided in paragraph (c)(1) of this section, not to receive such benefits in the form of a qualified joint and survivor annuity; and

(iii) If the plan provides for the payment of benefits before the normal retirement age, any participant may elect, as provided in paragraph (c)(2) of this section, that such benefits be payable as an early survivor annuity (as defined in paragraph (b)(3) of this section) upon his death in the event that he—

(A) Attains the qualified early retirement age (as defined in paragraph (b)(4) of this section), and

(B) Dies on or before the day normal retirement age is attained while employed by an employer maintaining the plan.

(2) *Certain cash-outs.* A plan will not fail to satisfy the requirements of section 401(a)(11) and this section merely because it provides that if the present value of the entire nonforfeitable benefit derived from employer contributions of a participant at the time of his separation from service does not exceed $1,750 (or such smaller amount as the plan may specify), such benefit will be paid to him in a lump sum.

(3) *Illustrations.* The provisions of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). The X Corporation Defined Contribution Plan was established in 1960. As in effect on January 1, 1974, the plan provided that, upon his retirement, a participant could elect to receive the balance of his individual account in the form of (1) a lump-sum cash payment, (2) a lump-sum distribution consisting of X Corporation stock, (3) five equal annual cash payments, (4) a life annuity, or (5) a combination of options (1) through (4). The plan also provided that, if a participant did not elect another form of distribution, the balance of his individual account would be distributed to him in the form of a lump-sum cash payment upon his retirement. Assume that section 401(a)(11) and this section became applicable to the plan as of its plan year beginning January 1, 1976, with respect to persons who were active participants in the plan as of such date (see paragraph (f) of this section). Unless the X Corporation Defined Contribution Plan either discontinues the life annuity payment option or is amended to provide that the balance of a participant's individual account will be paid to him in a form having the effect of a qualified joint and survivor annuity except to the extent that the participant elects another form of benefit payment, the trust established under the plan will fail to qualify under section 401(a).

Example (2). The Y Corporation Retirement Plan provides that plan benefits are payable only in the form of a life annuity and also provides that a participant may retire before the normal retirement age of 65 and receive a benefit if he has completed 30 years of service. Under this plan, an employee who begins employment at the age of 18 will be eligible to receive retirement benefits at the age of 48 if he then has 30 years of service. This plan must allow a participant to elect in the time and manner prescribed in paragraph (c)(2) of this section an early survivor annuity (defined in paragraph (b)(3) of this section) to be payable on the death of the participant if death occurs while the participant is in active service for the employer maintaining the plan and on or after the date the participant reaches the qualified early retirement age of 55 (the later of the date the participant reaches the earliest retirement age (age 48) or 10 years before normal retirement age (age 55)) but before the day after the day the participant reaches normal retirement age (age 65).

Example (3). Assume the same facts as in Example (2). A, B, and C began employment with Y Corporation when they each attained age 18. A retires and begins to receive benefit payments at age 48 after completing 30 years of service. The plan is not required to pay a qualified joint and survivor annuity to A and his spouse at any time. B does not elect an early survivor annuity at age 55, but retires at age 57 after completing 39 years of service. Unless B makes an election under subparagraph (1)(ii) of this paragraph, the plan is required to pay a qualified joint and survivor annuity to B and his spouse. C makes no elections described in subparagraph (1) of this paragraph, and dies while in active service at age 66 after completing 48 years of service. The plan is required to pay a qualified survivor annuity to C's spouse.

(b) *Definitions.* As used in this section—(1) *Life annuity.* (i) The term "life annuity" means an annuity that provides retirement payments and requires the survival of the participant or his spouse as one of the conditions for any payment or possible payment under the annuity. For example, annuities that make payments for 10 years or until death, whichever occurs first or whichever occurs last, are life annuities.

(ii) However, the term "life annuity" does not include an annuity, or that portion of an annuity, that provides those benefits which, under section 411(a)(9), would not be taken into account in the determination of the normal retirement benefit or early retirement benefit. For example, "social security supplements" described in the third sentence of section 411(a)(9) are not considered to be life annuities for the purposes of this section, whether or not an early retirement benefit is provided under the plan.

(2) *Qualified joint and survivor annuity.* The term "qualified joint and survivor annuity" means an annuity for the life of the participant with a survivor annuity for the life of his spouse which is neither (i) less than one-half of, nor (ii) greater than, the amount of the annuity payable during the joint lives of the participant and his spouse. For purposes of the preceding sentence, amounts described in § 1.401(a)-11(b)(1)(ii) may be disregarded. A qualified joint and survivor annuity must be at least the actuarial equivalent of the normal form of life annuity or, if greater, of any optional form of life annuity offered under the plan. Equivalence may be determined, on the basis of consistently applied reasonable actuarial factors, for each participant or for all participants or reasonable groupings of participants, if such determination does not result in discrimination in favor of employees who are officers, shareholders, or highly compensated. An annuity is not a qualified

joint and survivor annuity if payments to the spouse of a deceased participant are terminated, or reduced, because of such spouse's remarriage.

(3) *Early survivor annuity.* The term "early survivor annuity" means an annuity for the life of the participant's spouse the payments under which must not be less than the payments which would have been made to the spouse under the joint and survivor annuity if the participant had made the election described in paragraph (c)(2) of this section immediately prior to his retirement and if his retirement had occurred on the day before his death and within the period during which an election can be made under such paragraph (c)(2). For example, if a participant would be entitled to a single life annuity of $100 per month or a reduced amount under a qualified joint and survivor annuity of $80 per month, his spouse is entitled to a payment of at least $40 per month. However, the payments may be reduced to reflect the number of months of coverage under the survivor annuity pursuant to paragraph (e) of this section.

(4) *Qualified early retirement age.* The term "qualified early retirement age" means the latest of—

(i) The earliest date, under the plan, on which the participant could elect (without regard to any requirement that approval of early retirement be obtained) to receive retirement benefits (other than disability benefits),

(ii) The first day of the 120th month beginning before the participant reaches normal retirement age, or

(iii) The date on which the participant begins participation.

(5) *Normal retirement age.* The term "normal retirement age" has the meaning set forth in section 411(a)(8).

(6) *Annuity starting date.* The term "annuity starting date" means the first day of the first period with respect to which an amount is received as a life annuity, whether by reason of retirement or by reason of disability.

(7) *Day.* The term "day" means a calendar day.

(c) *Elections*—(1) *Election not to take joint and survivor annuity form*—(i) *In general.* (A) A plan shall not be treated as satisfying the requirements of this section unless it provides that each participant may elect, during the election period described in subdivision (ii) of this subparagraph, not to receive a qualified joint and survivor annuity. However, if a plan provides that a qualified joint and survivor annuity is the only form of benefit payable under the plan with respect to a married participant, no election need be provided.

(B) The election shall be in writing and clearly indicate that the participant is electing to receive all or, if permitted by the plan, part of his benefits under the plan in a form other than that of a qualified joint and survivor annuity. A plan will not fail to meet the requirements of this section merely because the plan requires the participant to obtain the written approval of his spouse in order for the participant to make this election or if the plan provides that such approval is not required.

(ii) *Election period.* (A) For purposes of the election described in paragraph (c)(1)(i) of this section, the plan shall provide an election period which shall include a period of at least 90 days following the furnishing of all of the applicable information required by subparagraph (3)(i) of this paragraph and ending prior to commencement of benefits. In no event may the election period end earlier than the 90th day before the commencement of benefits. Thus, for example, the commencement of benefits may be delayed until the end of such election period because the amount of payments to be made to a participant cannot be ascertained before the end of such period; see § 1.401(a)-14(d).

If a participant makes a request for additional information as provided in subparagraph (3)(iii) of this paragraph on or before the last day of the election period, the election period shall be extended to the extent necessary to include at least the 90 calendar days immediately following the day the requested additional information is personally delivered or mailed to the participant. Notwithstanding the immediately preceding sentence, a plan may provide in cases in which the participant has been furnished by mail or personal delivery all of the applicable information required by subparagraph (3)(i) of this paragraph, that a request for such additional information must be made on or before a date which is not less than 60 days from the date of such mailing or delivery; and if the plan does so provide, the election period shall be extended to the extent necessary to include at least the 60 calendar days following the day the requested additional information is personally delivered or mailed to the participant.

(B) In the case of a participant in a plan to which this subparagraph applies who separated from service after section 401(a)(11) and this section became applicable to such plan with respect to such participant, and to whom an election required by this subparagraph has not been previously made available (and will not become available in normal course), the plan must provide an election to receive the balance of his benefits (properly adjusted, if applicable, for payments received, prior to the exercise of such election, in the form of a qualified joint and survivor annuity) in a form other than that of a qualified joint and survivor annuity. The provisions of paragraph (c)(1)(ii)(A) shall apply except that in no event shall the election period end before the 90th day after the date on which notice of the availability of such election and the applicable information required by subparagraph (3)(i) of this paragraph is given directly to the participant. If such notice and information is given by mail, it shall be treated as given on the date of mailing. If such participant has died, such election shall be made available to such participant's personal representative.

(2) *Election of early survivor annuity*—(i) *In general.* (A) A plan described in paragraph (a)(1)(iii) of this section shall not be treated as satisfying the requirements of this section unless it provides that each participant may elect, during the period described in subdivision (ii) of this subparagraph, an early survivor annuity as described in paragraph (a)(1)(iii) of this section. Breaks in service after the participant has attained the qualified early retirement age neither invalidate a previous election or revocation nor prevent an election from being made or revoked during the election period.

(B) The election shall be in writing and clearly indicate that the participant is electing the early survivor annuity form.

(C) A plan is not required to provide an election under this paragraph if—

(*1*) The plan provides that an early survivor annuity is the only form of benefit payable under the plan with respect to a married participant who dies while employed by an employer maintaining the plan, or

(2) In the case of a defined contribution plan, the plan provides a survivor benefit at least equal in value to the vested portion of the participant's account balance, with respect to a participant who dies while in active service with an employer maintaining the plan.

(ii) *Election period.* (A) For purposes of the election described in paragraph (c)(2)(i) of this section the plan shall provide an election period which, except as provided in the following sentence, shall begin not later than the later of either the 90th day before a participant attains the qualified early retirement age or the date on which his participation begins, and shall end on the date the participant terminates his employment. If such a plan contains a provision that any election made under this subparagraph does not become effective or ceases to be effective if the participant dies within a certain period beginning on the date of such election, the election period prescribed in this subdivision (ii) shall begin not later than the later of (*1*) a date which is 90 days plus such certain period before the participant attains the qualified early retirement age or (2) the date on which his participation begins. For example, if a plan provides that an election made under this paragraph does not become effective if the participant dies less than 2 years after the date of such election, the period for making an election under this paragraph must begin not later than the later of (*1*) 2 years and 90 days before the participant attains the qualified early retirement age, or (2) the date on which his participation begins. However, the election period for an individual who was an active participant on the date this section became effective with regard to the plan need not begin earlier than such effective date.

(B) In the case of a participant in a plan to which this subparagraph applies who dies after section 401(a)(11) and this section became applicable to such plan with respect to such participant and to whom an election required by this subparagraph has not been previously made available, the plan must give the participant's surviving spouse or, if dead, such spouse's personal representative the option of electing an early survivor annuity. The plan may reduce the surviving spouse's annuity to take into account any benefits already received. The period for making such election shall not end before the 90th day after the date on which written notice of the availability of such election and applicable information required by subparagraph (3)(i) of this paragraph is given directly to such surviving spouse or personal representative. If such notice and information is given by mail, it shall be treated as given on the date of mailing.

(3) *Information to be provided by plan administrator.* (i) A plan which is required to provide either or both of the elections described in paragraph (c)(1) or (2) of this section must provide to the participants, at the time and in the manner specified in subdivision (ii) of this subparagraph, the following information, as applicable to the plan, in written nontechnical language:

(A) In the case of the election described in paragraph (c)(1) of this section, a general description or explanation of the qualified joint and survivor annuity, the circumstances in which it will be provided unless the participant has elected not to have benefits provided in that form, and the availability of such election;

(B) In the case of the election described in paragraph (c)(2) of this section, a general description of the early survivor annuity, the circumstances under which it will be paid if elected, and the availability of such election; and

(C) A general explanation of the relative financial effect on a participant's annuity of either or both elections, as the case may be.

Various methods may be used to explain such relative financial effect. With regard to a qualified joint and survivor annuity, they include: information as to the benefits the participant would receive under the qualified joint and survivor annuity stated as an arithmetic or percentage reduction from a single life annuity; a table showing the difference between a straight life annuity and a qualified joint and survivor annuity in terms of a reduction in dollar amounts; a table showing a percentage reduction from the straight life annuity or, in the case of a profit-sharing plan, an approximate dollar amount reduction. The notice and explanation required by this subdivision (i) must also inform the participants of the availability of the additional information specified in subdivision (iii) of this subparagraph and how they may obtain such information.

(ii) The method or methods used to provide the information described in subdivision (i) of this subparagraph may vary. See § 1.7476-2(c)(1) for examples of methods which can be used. One or more methods may be used to provide the required information provided that all of the required information is provided by one method or a combination of methods by or within the time period specified in this subdivision (ii). If mail or personal delivery is used, then, whether or not the information has been previously provided, there must be a mailing or personal delivery of the information by such time as to reasonably assure that it will be received on or about: (*1*) in the case of a plan which does not provide for the payment of benefits before the normal retirement age, the date which is 9 months before the participant attains normal retirement age; (2) in the case of a plan which provides for the payment of benefits before the normal retirement age and which is required to provide the election described in paragraph (c)(2) of this section (whether or not it is also required to provide the election described in paragraph (c)(1) of this section), the date which is 90 days before the latest date prescribed by paragraph (c)(2)(ii)(A) for the beginning of the election period for the early survivor annuity; or (3) in the case of a plan which provides for the payment of benefits before the normal retirement age and which is required to provide only the election described in paragraph (c)(1) of this section, the date which is nine months before the participant attains the qualified early retirement age; except that in the case of a plan described in (2) or (3), if the qualified early retirement age is the date the participant begins participation in the plan, the information may be provided on or about such date. If a method other than mail or personal delivery is used to provide participants with some or all of such information, it must be a method which is reasonably calculated to reach the attention of a participant on or about the date prescribed in the immediately preceding sentence and to continue to reach the attention of such participant during the election period applicable to him for which the information is being provided (as, for example, by permanent posting, repeated publication, etc.).

(iii) The plan administrator must furnish to a particular participant, upon a timely written request, a written explanation in nontechnical language of the terms and conditions of the qualified joint and survivor annuity and the financial effect upon the particular participant's annuity of making any election under this paragraph. Such financial effect shall be given in terms of dollars per annuity payment; and in the case of a defined contribution plan, the projected annuity for a particular participant may be based on his account balance as of the most recent valuation date. The plan administrator need not comply with more than one such request made by a particular participant. This explanation must be personally delivered or mailed (first class mail, postage prepaid) to the participant within 30 days from the date of the participant's written request.

(4) *Election is revocable.* A plan to which this section applies must provide that any election made under this paragraph may be revoked in writing during the specified election period, and that after such election has been revoked, another election under this paragraph may be made during the specified election period.

(5) *Election by surviving spouse.* A plan will not fail to meet the requirements of section 401(a)(11) and this section merely because it provides that the spouse of a deceased participant may elect to have benefits paid in a form other than a survivor annuity. If the plan provides that such a spouse may make such an election, the plan administrator must furnish to this spouse, within a reasonable amount of time after a written request has been made by this spouse, a written explanation in nontechnical language of the survivor annuity and any other form of payment which may be selected. This explanation must state the financial effect (in terms of dollars) of each form of payment. A plan need not respond to more than one such request.

(d) *Permissible additional plan provisions*—(1) *In general.* A plan will not fail to meet the requirements of section 401(a)(11) and this section merely because it contains one or more of the provisions described in paragraph (d)(2) through (4) of this section.

(2) *Claim for benefits.* A plan may provide that as a condition precedent to the payment of benefits, a participant must express in writing to the plan administrator the form in which he prefers benefits to be paid and provide all the information reasonably necessary for the payment of such benefits. However, if a participant files a claim for benefits with the plan administrator and provides the plan administrator with all the information necessary for the payment of benefits but does not indicate a preference as to the form for the payment of benefits, benefits must be paid in the form of a qualified joint and survivor annuity if the participant has attained the qualified early retirement age unless such participant has made an effective election not to receive benefits in such form. For rules relating to provisions in a plan to the effect that a claim for benefits must be filed before the payment of benefits will commence, see § 1.401(a)-14.

(3) *Marriage requirements.* A plan may provide that a joint and survivor annuity will be paid only if—

(i) The participant and his spouse have been married to each other throughout a period (not exceeding one year) ending on the annuity starting date.

(ii) The spouse of the participant is not entitled to receive a survivor annuity (whether or not the election described in paragraph (c)(2) of this section has been made) unless the participant and his spouse have been married

to each other throughout a period (not exceeding one year) ending on the date of such participant's death.

(iii) The same spouse must satisfy the requirements of subdivisions (i) and (ii) of this subparagraph.

(iv) The participant must notify the plan administrator (as defined by section 414(g)) of his marital status within any reasonable time period specified in the plan.

(4) *Effect of participant's death on an election or revocation of an election under paragraph (c).* A plan may provide that any election described in paragraph (c) of this section or any revocation of any such election does not become effective or ceases to be effective if the participant dies within a period, not in excess of 2 years, beginning on the date of such election or revocation. However, a plan containing a provision described in the preceding sentence shall not satisfy the requirements of this section unless it also provides that any such election or any revocation of any such election will be given effect in any case in which—

(i) The participant dies from accidental causes,

(ii) A failure to give effect to the election or revocation would deprive the participant's survivor of a survivor annuity, and

(iii) Such election or revocation is made before such accident occurred.

(e) *Costs of providing qualified joint and survivor annuity form or early survivor annuity form.* A plan may take into account in any equitable manner consistent with generally accepted actuarial principles applied on a consistent basis any increased costs resulting from providing qualified joint and survivor annuity and early survivor annuity benefits. A plan may give a participant the option of paying premiums only if it provides another option under which an out-of-pocket expense by the participant is not required.

(f) *Application and effective date.* Section 401(a)(11) and this section shall apply to a plan only with respect to plan years beginning after December 31, 1975, and shall apply only if—

(1) The participant's annuity starting date did not fall within a plan year beginning before January 1, 1976, and

(2) The participant was an active participant in the plan on or after the first day of the first plan year beginning after December 31, 1975.

For purposes of this paragraph, the term "active participant" means a participant for whom benefits are being accrued under the plan on his behalf (in the case of a defined benefit plan), the employer is obligated to contribute to or under the plan on his behalf (in the case of a defined contribution plan other than a profit-sharing plan), or the employer either is obligated to contribute to or under the plan on his behalf or would have been obligated to contribute to or under the plan on his behalf if any contribution were made to or under the plan (in the case of a profit-sharing plan).

If benefits under a plan are provided by the distribution to the participants of individual annuity contracts, the annuity starting date will be considered for purposes of this paragraph to fall within a plan year beginning before January 1, 1976, with respect to any such individual contract that was distributed to the participant during a plant year beginning before January 1, 1976, if no premiums are paid with respect to such contract during a plan year beginning after December 31, 1975. In the case of individual annuity contracts that are distributed to participants before July 1, 1977, and which contain an option to provide a qualified joint and survivor annuity, the requirements of this section will be considered to have been satisfied if, not later than July 1, 1977, holders of individual annuity contracts who are participants described in the first sentence of this paragraph are given an opportunity to have such contracts amended so as to provide for a qualified joint and survivor annuity in the absence of a contrary election, within a period of not less than one year from the date such opportunity was offered. In no event, however, shall the preceding sentence apply with respect to benefits attributable to premiums paid after June 30, 1977.

(Secs. 401(a)(11), 7805 Internal Revenue Code of 1954, (88 Stat. 935, 68A Stat. 917; (26 U.S.C. 401(a)(11), 7805))

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: January 3, 1977.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

[FR Doc.77-588 Filed 1-4-77;1:16 pm]

[T.D. 7459]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Various Elections

This document contains temporary income tax regulations (26 CFR Part 7) under various sections of the Internal Revenue Code of 1954 and the Tax Reform Act of 1976, to provide the manner and time for making various elections contained in the Tax Reform Act of 1976 (90 Stat. 1520).

The Tax Reform Act of 1976 contains a number of provisions in which taxpayers are permitted to make elections. In order to provide immediate guidance to taxpayers, this regulation provides the manner in which many of the elections contained in the Act are to be made.

ADOPTION OF REGULATIONS

In order to prescribe temporary regulations, which shall remain in force and effect until superseded by permanent regulations, relating to the manner of making certain elections provided by the Tax Reform Act of 1976, the following regulations are hereby adopted:

§ 7.0 Various elections under the Tax Reform Act of 1976.

(a) *Elections covered by temporary rules.* The sections of the Internal Revenue Code of 1954, or of the Tax Reform Act of 1976, to which this section applies and under which an election or notification may be made pursuant to the procedures described in paragraphs (b) and (d) are as follows:

Section	Description of election	Availability of election
	(1) 1st category	
167(o) of code	Substantially rehabilitated historic property	Additions to capital account occurring after June 30, 1976, and before July 1, 1981.
172(b)(3)(E) of code	Forego of carryback period	Any taxable year ending after Dec. 31, 1975.
191(b) of code	Amortization of certain rehabilitation expenditures.	Additions to capital account occurring after June 14, 1976, and before June 15, 1981.
402(e)(4)(L) of code	Lump sum distributions from qualified plans.	Distributions and payments made after Dec. 31, 1975, in taxable years beginning after such date.
451(e) of code	Livestock sold on account of drought	Any taxable year beginning after Dec. 31, 1975.
812(b)(3) of code	Forego of carryback period by life insurance companies.	Any taxable year ending after Dec. 31, 1975.
819A of code	Contiguous country branches of domestic life insurance companies.	All taxable years beginning after Dec. 31, 1975.
825(d)(2) of code	Forego of carryback period by mutual insurance companies.	Any taxable year ending after Dec. 31, 1975.
911(e) of code	Foregoing of benefits of sec. 911	All taxable years beginning after Dec. 31, 1975.
	(2) 2d category	
185(d) of code	Amortization of railroad grading and tunnel bores.	All taxable years beginning after Dec. 31, 1974.
528(c)(1)(E) of code	Certain homeowners associations	Do.
1057 of code	Transfer to foreign trusts etc.	Any transfer of property after Oct. 2, 1975.
6013(g) of code	Joint return for nonresident alien	All taxable years ending on or after Dec. 31, 1975.
6013(h) of code	Joint return for year in which nonresident alien becomes resident.	Do.

(b) *Time for making election or serving notice*—(1) *Category (1).* A taxpayer may make an election under any section referred to in paragraph (a)(1) of this section for the first taxable year for which the election is required to be made or for the taxable year selected by the taxpayer when the choice of the taxable year is optional. The election must be made by the later of the time, including

extensions thereof, prescribed by law for filing income tax returns for such taxable year or March 8, 1977.

(2) *Category (2).* A taxpayer may make an election under any section referred to in paragraph (a)(2) for the first taxable year for which the election is allowed or for the taxable year selected by the taxpayer when the choice of the taxable year is optional. The election must be made (i) for any taxable year ending before December 31, 1976, for which a return has been filed before January 31, 1977, by filing an amended return, provided that the period of limitation for filing claim for credit or refund of overpayment of tax, determined from the time the return was filed, has not expired or (ii) for all other years by filing the income tax return for the year for which the election is made not later than the time, including extensions thereof, prescribed by law for filing income tax returns for such year. However, an organization which has its exempt status under section 501(a) of the Code revoked for any taxable year and which is described in section 528 of the Code, may make an election under section 528 (c)(1)(E) of the Code for such year, before the expiration of the period for filing claim for credit or refund of overpayment of tax.

(c) *Certain other elections.* The elections described in this paragraph shall be made in the manner and within the time prescribed herein and in paragraph (d) of this section.

(1) The following elections under the Tax Reform Act of 1976 shall be made:

(i) Sec. 207(c)(3) of Act; change from static value method of accounting; all taxable years beginning after December 31, 1976.

by filing Form 3115 with the National Office of the Internal Revenue Service before October 5, 1977.

(ii) Sec. 604 of Act; travel expenses of State legislators; all taxable years beginning before January 1, 1976.

by filing an amended return for any taxable year for which the period for assessing or collecting a deficiency has not expired before October 4, 1976, by the last day for filing a claim for refund or credit for the taxable year but in no event shall such day be earlier than October 4, 1977.

(iii) Sec. 804(e)(2) of Act; retroactive applications of amendments to property described in section 50(a) of Code; certain taxable years beginning before January 1, 1975.

by filing amended returns before October 5, 1977, for all taxable years to which applicable for which the period of limitation for filing claim for credit or refund for overpayment of tax has not expired.

(iv) Sec. 1608(d)(2) of Act; election as a result of determination as defined in section 859(c) of the Code; determinations made after October 4, 1976.

by filing a statement with the district director for the district in which the taxpayer maintains its principal place of business within 60 days after such determination.

(v) Sec. 2103 of Act; treatment of certain 1972 disaster losses. Any taxable year in which payment is received or indebtedness is forgiven.

by filing a return for the taxable year or an amended return by the last day for making a claim for credit or refund for the taxable year but in no event shall such day be earlier than October 4, 1977.

(2) The election provided in section 37(e) of the Code relating to the credit for the elderly and section 144(a) of the Code relating to the standard deduction, available for any taxable year beginning after December 31, 1975, may be made any time before the expiration of the period of limitation for filing claim for credit or refund. Once made such election may be revoked without the consent of the Commissioner any time before the expiration of such period by filing an amended return.

(3) The election provided for in section 167(e)(3) of the Code shall be made in accordance with § 1.167(e)-1(d) except that the election shall be applicable for the first taxable year of the taxpayer beginning after December 31, 1975.

(4) The election provided in section 501(i) of the Code relating to lobbying by public charities may be made for all taxable years beginning after December 31, 1976, by filing a statement with the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155 (for organizations in the Central Region the Internal Revenue Service Center, Cincinnati, Ohio 45298) before the close of the first taxable year for which the election is effective.

(5) The election provided in section 936(e) of the Code relating to the Puerto Rico and possession tax credit, available for all taxable years beginning after December 31, 1975, shall be made by filing Form 5712 within 90 days after the beginning of the first taxable year for which such election is made with the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155. If the first taxable year for which such an election is made is a taxable year beginning before January 1, 1977, such election shall be made in the manner prescribed in the preceding sentence by May 9, 1977.

(6) The election provided in section 1033(f)(3) of the Code may be made for any taxable year beginning after December 31, 1970, by filing an amended return for any taxable year for which the period of limitation for filing a claim for credit or refund of overpayment has not expired, and for any taxable year ending on or after December 31, 1976, by filing the income tax return for the year the election is made not later than the time, including extensions thereof, prescribed by law for filing income tax returns for such taxable year.

(d) *Manner of making election.* Unless otherwise provided in the return or in a form accompanying a return for the taxable year, the elections described in paragraphs (a) and (c) (except paragraphs (c)(1)(i), (c)(3) and (c)(5)) shall be made by a statement attached to the return (or amended return) for the taxable year. The statement required when making an election pursuant to this section shall indicate the section under which the election is being made and shall set forth information to identify the election, the period for which it applies, and the taxpayer's basis or entitlement for making the election.

(e) *Effect of election.*—(1) *Consent to revoke required.* Except where otherwise provided by statute or except as provided in paragraph (c)(2) and subparagraph (2) of this paragraph, an election to which this section applies made in accordance with this section shall be binding unless consent to revoke the election is obtained from the Commissioner. An application for consent to revoke the election will not be accepted before the promulgation of the permanent regulations relating to the section of the Code or Act under which the election is made. Such regulations will provide a reasonable period of time within which taxpayers will be permitted to apply for consent to revoke the election.

(2) *Revocation without consent.* An election to which this section applies, other than the elections referred to in paragraph (c)(2) of this section, made in accordance with this section, may be revoked without the consent of the Commissioner not later than 90 days after the permanent regulations relating to the section of the Code or Act under which the election is made are filed with the office of the Federal Register, provided such regulations grant taxpayers blanket permission to revoke that election within such time without the consent of the Commissioner. Such blanket permission to revoke an election will be provided by the permanent regulations in the event of a determination by the Secretary or his delegate that such regulations contain provisions that may not reasonably have been anticipated by taxpayers at the time of making such election.

(f) *Furnishing of supplementary information required.* If the permanent regulations which are issued under the section of the Code or Act referred to in this section to which the election relates require the furnishing of information in addition to that which was furnished with the statement of election filed pursuant to paragraph (d) of this section, the taxpayer must furnish such additional information in a statement addressed to the district director, or the director of the regional service center, with whom the election was filed. This statement must clearly identify the election and the taxable year for which it was made. If such information is not provided the election may, at the discretion of the Commissioner, be held invalid.

§ 7.856(g)-1 Special rule for real estate investment trusts.

The election pursuant to section 856 (c)(1) by a corporation, trust, or association to be treated as a real estate in-

vestment trust may be revoked under section 856(g) for any taxable year and all succeeding taxable years by filing a statement with the district director for the district in which the taxpayer maintains its principal place of business on or before the 90th day after the first day of the first taxable year for which the revocation is to be effective.

Because the purpose of this Treasury decision is to provide immediate guidance as to the manner of making certain elections made available by reason of the enactment of the Tax Reform Act of 1976, it is hereby found impracticable to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805) and certain provisions of the Tax Reform Act of 1976 (P.L. 94-455))

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: January 3, 1977.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

[FR Doc.77-703 Filed 1-4-77;4:53 pm]

[T.D. 7457]

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Temporary Regulations Relating to Information Reporting Requirements on Certain Winnings From Bingo, Keno, and Slot Machines

This document contains temporary income tax regulations (26 CFR Part 7) under section 6041 of the Internal Revenue Code of 1954 pursuant to section 1207(d) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1705) in order to provide rules with respect to information reporting requirements on certain winnings from bingo, keno, and slot machines.

Section 6041 of the Code provides, in general, that all persons engaged in a trade or business and making a payment in the course of such trade or business of $600 or more to another person must file an information return with respect to that payment under such regulations and in such form and manner and to such extent as the Secretary prescribes. Winnings from gambling are subject to this general rule of section 6041 and the existing regulations thereunder.

Section 7.6041-1 provides specific rules for reporting winnings from bingo, (keno, and slot machines. Effective February 1, 1977, every person engaged in a trade or business and making any payment of winnings of $600 or more from a bingo or keno game or a slot machine play is required to make an information return with respect to that payment. The regulation makes no exception to this requirement based on betting odds. Further, the regulation provides that in determining whether winnings equal or exceed $600 the following rules apply: (1) The amount of winnings shall not be reduced by the amount wagered; (2) winnings include the fair market value of a payment in any medium other than cash; (3) all winnings of the winner from one bingo or keno game must be aggregated; and (4) winnings and losses from any other wagering transaction by the winner shall not be taken into account.

A new Form W-2G is prescribed for use in reporting winnings from bingo, keno, and slot machines. The form shows the name, address, and social security or employer identification number of the payor and the winner and contains a general description of two types of identification furnished for verification of the winner's name, address, and social security number. In addition, the form contains the date and amount of the payment and certain other information depending upon the type of wagering transaction with respect to which the payment is made.

ADOPTION OF AMENDMENT TO THE REGULATIONS

In order to prescribe temporary income tax regulations relating to information reporting requirements on certain winnings from bingo, keno, and slot machines under section 6041 of the Internal Revenue Code of 1954, pursuant to section 1207(d) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1705), the following temporary regulations are hereby adopted and added to Part 7 of Title 26 of the Code of Federal Regulations:

§ 7.6041-1 Return of information as to payments of winnings from bingo, keno, and slot machines.

(a) *In general.* On or after February 1, 1977, every person engaged in a trade or business and making any payment in the course of such trade or business of winnings of $600 or more (including winnings which are exempt from withholding under section 3402(q)(5)) from a bingo or keno game or a slot machine play shall make an information return with respect to such payment.

(b) *Special rules.* For purposes of paragraph (a) of this section, in determining whether such winnings equal or exceed $600—

(1) The amount of winnings shall not be reduced by the amount wagered;

(2) Winnings shall include the fair market value of a payment in any medium other than cash;

(3) All winnings by the winner from one bingo or keno game shall be aggregated; and

(4) Winnings and losses from any other wagering transaction by the winner shall not be taken into account.

(c) *Prescribed form.* The return required by paragraph (a) of this section shall be made on Form W-2G and shall be filed with the Internal Revenue Service Center serving the district in which is located the principal place of business of the person making the return on or before February 28 of the calendar year following the calendar year in which the payment of winnings is made. Each Form W-2G shall contain the following:

(1) Name, address, and employer identification number of the person making the payment;

(2) Name, address, and social security number of the winner;

(3) General description of two types of identification (*e.g.*, "driver's license", "social security card", or "voter registration card") furnished to the maker of the payment for verification of the winner's name, address, and social security number;

(4) Date and amount of the payment; and

(5) Type of wagering transaction. In addition, in the case of a bingo or keno game, Form W-2G shall show any number, color, or other designation assigned to the game with respect to which the payment is made. In the case of a slot machine play, Form W-2G shall show the identification number of the slot machine.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

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

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: January 3, 1977.

CHARLES M. WALKER,
Assistant Secretary of the Treasury.

[FR Doc.77-704 Filed 1-4-77;4:53 pm]

Title 31—Money and Finance: Treasury

SUBTITLE B—REGULATIONS RELATING TO MONEY AND FINANCE

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

PART 101—MITIGATION OF FORFEITURE OF COUNTERFEIT GOLD COINS

Establishment of Part

Pursuant to the authority vested in me by 18 U.S.C. 492, Act of June 25, 1948, C. 645, 62 Stat. 710, I hereby issue in 31 CFR Chapter I, a new Part 101. This Part establishes a policy whereby certain innocent purchasers or holders of gold coins who have forfeited them to the United States because they were determined to be counterfeit, can, under certain conditions, recover the gold bullion from the coins. Since the material contained herein constitutes a general statement of policy for which public participation is unnecessary, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effec-

tive date are inapplicable. Therefore, Title 31, Chapter I, Code of Federal Regulations, is amended by adding a new Part 101, "Mitigation of Forfeiture of Counterfeit Gold Coins", as set forth below.

Dated: January 3, 1977.

JERRY THOMAS,
Under Secretary of the Treasury.

Sec.
101.1 Purpose and scope.
101.2 Petitions for mitigation.
101.3 Petitions reviewed by Assistant Secretary, Enforcement, Operations, Tariff Affairs.
101.4 Extraction of bullion from coins.
101.5 Payment of smelting costs.
101.6 Return of the bullion.
101.7 Exceptions.
101.8 Discretion of the Secretary.

AUTHORITY: 18 U.S.C. 492

§ 101.1 Purpose and scope.

The purpose of this part is to establish a policy whereby certain purchasers or holders of gold coins who have forfeited them to the United States because they were counterfeit may, in the discretion of the Secretary of the Treasury, recover the gold bullion from the coins. This part sets forth the procedures to be followed in implementing this policy.

§ 101.2 Petitions for mitigation.

(a) *Who may file.* Any person may petition the Secretary of the Treasury for return of the gold bullion of counterfeit gold coins forfeited to the United States if:

(1) The petitioner innocently purchased or received the coins and held them without the knowledge that they were counterfeit; and,

(2) The petitioner voluntarily submitted the coins to the Treasury Department for a determination of whether they were legitimate or counterfeit; and,

(3) The coins were determined to be counterfeit and were seized by the Treasury Department and forfeited to the United States.

(b) *To whom addressed.* Petitions for mitigation of the forfeiture of counterfeit gold coins should be addressed to the Assistant Secretary, Enforcement, Operations, Tariff Affairs, Department of Treasury, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220.

(c) *Form.* The petition need not be in any particular form, but must be under oath, and set forth at least the following:

(1) The full name and address of the petitioner;

(2) A description of the coin or coins involved;

(3) The name and address of the person from whom the coins were received or purchased by the petitioner;

(4) The date and place where they were voluntarily submitted for examination;

(5) Any other circumstances relied upon by the petitioner to justify the mitigation;

(6) A statement that the petitioner purchased or received and held the coins without the knowledge that they were counterfeit.

§ 101.3 Petitions reviewed by Assistant Secretary, Enforcement, Operations, Tariff Affairs.

The Assistant Secretary will receive and review all petitions for mitigation of the forfeiture of counterfeit gold coins. He shall conduct such further investigation, and may request such further information from the petitioner as he deems necessary. Petitions will be approved if the Assistant Secretary determines that:

(1) The gold coins have not been previously disposed of by normal procedures;

(2) The petitioner was an innocent purchaser or holder of the gold coins and is not under investigation in connection with the coins at the time of submission or thereafter;

(3) The coins are not needed and will not be needed in the future in any investigation or as evidence in legal proceedings; and

(4) Mitigation of the forfeiture is in the best interest of the Government.

§ 101.4 Extraction of gold bullion from the counterfeit coins.

If the petition is approved, the Assistant Secretary shall then forward the gold coins to the Bureau of the Mint where, if economically feasible, the gold bullion will be extracted from the counterfeit coins. The Bureau of the Mint will then return the bullion to the Assistant Secretary.

§ 101.5 Payment of smelting costs.

The petitioner shall be required to pay all reasonable costs incurred in extracting the bullion from the counterfeit coins, as shall be determined by the Assistant Secretary. Payment must be made prior to the return of the gold bullion to the petitioner.

§ 101.6 Return of the bullion.

After receiving the gold bullion from the Bureau of the Mint, the Assistant Secretary shall notify the petitioner that his petition has been approved and that payment of the smelting costs in an amount set forth in such notice must be made prior to the return of the bullion.

§ 101.7 Exceptions.

The provisions of this part shall not apply where the cost of smelting the gold coins exceeds the value of the gold bullion to be returned.

§ 101.8 Discretion of the Secretary.

The Secretary of the Treasury retains complete discretion to deny any claim of any petitioner when the Secretary believes it is not in the best interest of the Government to return the bullion to the petitioner or when the Secretary is not convinced that the petitioner was an innocent purchaser or holder without knowledge that the gold coins were counterfeit.

[FR Doc.77-566 Filed 1-6-77;8:45 am]

CHAPTER V—OFFICE OF FOREIGN ASSETS CONTROL, DEPARTMENT OF THE TREASURY

PART 515—CUBAN ASSETS CONTROL REGULATIONS

Transactions by American-Owned or Controlled Foreign Firms

Section 515.559 of the Cuban Assets Control Regulations (31 CFR Part 515), stating the policies of the Office of Foreign Assets Control for the issuance of specific licenses for trade with Cuba by foreign affiliates of U.S. firms, is being amended by deletion of the provision in paragraph (a)(3) that such foreign affiliates be located in the importing or exporting country.

Section 515.201 prohibits any unlicensed involvement in Cuban trade by persons subject to the jurisdiction of the United States. The purpose of paragraph (a)(3) of § 515.559 was to minimize the possibility of unauthorized involvement by the United States parent firms in licensed transactions with Cuba by their foreign affiliates. In lieu thereof, a specific provision (paragraph (c)) is being added which explicitly describes the general types of involvement which are not permitted.

The amendment states that prohibited conduct would include such involvement as assistance by a U.S. parent firm, or any officer or employee thereof, in either the negotiation or performance of a transaction which was the subject of a license application. Such assistance or participation is a ground for denial of an application, or revocation of a license.

The new subparagraph makes clear that the affiliate must be generally independent of the parent in the conduct of licensed transactions, e.g., in decision-making, risk-taking, negotiation, financing or arranging of financing, and performance of licensed transactions with Cuba. For purposes of the section, an affiliate is not independent if there are a substantial number of officers or directors of the foreign affiliate who are also officers, or directors, of a person within the United States.

As the material contained herein clarifies existing published rules, and as those published rules involve a foreign affairs function, the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rule making, opportunity for public participation, and delay in effective date, are inapplicable.

31 CFR Part 515 is amended by amending § 515.559 by revising paragraph (a)(3) and adding paragraph (c) to read as follows:

§ 515.559 Transactions by American-owned or controlled foreign firms with Cuba.

(a) • • •

(3) Importation of goods of Cuban origin into countries in the authorized trade territory.

• • • • •

(c) Specific licenses issued pursuant to the policies set forth in this section do not authorize any person within the United States to engage in, participate in, or be involved in a licensed transaction with Cuba or Cuban nationals. Such involvement includes, but not by way of limitation, assistance or participation by a U.S. parent firm, or any officer or employee thereof, in the negotiation or performance of a transaction which is the subject of a license application. Such participation is a ground for denial of a license application, or for revocation of a license. To be eligible for a license under this section, the affiliate must be generally independent, in the conduct of transactions of the type for which the license is being sought, in such matters as decisionmaking, risk-taking, negotiation, financing or arranging of financing, and performance. For purposes of this section, an affiliate is not independent if there are a substantial number of officers or directors of the foreign affiliate who are also officers or directors of a person within the United States.

(50 U.S.C. App. 5(b); 22 U.S.C. 2370(a); E. O. 9193; 3 CFR 1959–1963 Comp. Treasury Department Order No. 128. 32 FR 3472.)

Effective date. These amendments take effect on January 10, 1977.

STANLEY L. SOMMERFIELD,
Acting Director,
Office of Foreign Assets Control.

[FR Doc.77-741 Filed 1-6-77;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER VI—AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

PART 606—THE OFFICIAL COMMEMORATIVE LICENSING PROGRAM

Disposition of Inventory

On November 30, 1976, there was published in the FEDERAL REGISTER (41 FR 52486) a notice that the American Revolution Bicentennial Administration (ARBA) proposes to amend Part 606 of Title 36 of the Code of Federal Regulations to authorize licensees under its official commemoratives program to sell inventory on hand and/or in process of manufacture at the end of their license period without payment of royalty thereon for a period of 60 calendar days thereafter.

Interested persons were invited to submit written comments on the proposed amendment. No comments having been received and pursuant to authorization of the ARB Board at its December 8, 1976 meeting, 36 CFR Part 606 is amended by the addition of § 606.106 "Disposition of Inventory" as follows:

§ 606.106 Disposition of inventory.

The licensee is authorized to sell inventory on hand and/or in process of manufacture on the date of expiration of the license, for an additional 60 calendar days thereafter without payment of royalty thereon.

HERBERT HETU,
Acting Administrator.

DECEMBER 30, 1976.

[FR Doc.77-608 Filed 1-6-77;8:45 am]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[General Order 13; Amendment 8]

PART 536—FILING OF TARIFFS BY COMMON CARRIERS BY WATER IN THE FOREIGN COMMERCE OF THE UNITED STATES AND BY CONFERENCES OF SUCH CARRIERS

Exemption—Foss Launch & Tug Co. and Certain Carriers in the United States North Pacific—Canada—Alaska Trade

Foss Launch & Tug Co. is a common carrier by water operating a barge movement of rail cars between North Vancouver, British Columbia, Canada and Seattle and Tacoma, Washington. This barge movement connects with rail operations in both the United States and Canada which are subject to regulation by the Interstate Commerce Commission. Foss serves as a participant in a through route service connecting the British Columbia Railway and the Burlington Northern Railroad and the Chicago, Milwaukee, St. Paul and Pacific Railroad Company.

An application has been filed by attorneys for Foss Launch & Tug Co. for a section 35 exemption from the tariff filing requirements of section 18(b) of the Shipping Act, 1916. In response to this application, and to the knowledge that other similar carriers existed in that trade, as well as the Canadian/Alaskan trade, the Commission extended the provisions of this exemption request on its own initiative to all other water carriers participating in the through rail service between United States Puget Sound ports and ports in British Columbia, Canada; and between ports in British Columbia, Canada on the one hand, and ports and points in Alaska on the other hand.

Notice of the Commission's intention to consider Foss' application and its intention to broaden this exemption on its own initiative was published in the FEDERAL REGISTER on August 10, 1976 (41 FR 33586). During the 20-day notice period, we received only one letter of protest to the proposed extension of the exemption. This protest was received from Sea-Land Service, Inc., applicable with respect to traffic moving from U.S. origins via Canada to Alaska. Sea-Land's complaint appears to be that the broadening of this exemption would place it at a severe competitive disadvantage to the carriers operating in the Canada to Alaska trade because Sea-Land would have no knowledge of those water carriers' rates.

Sea-Land is a common carrier by water operating between U.S. ports on the one hand, and ports in Alaska on the other. It participates in joint motor and water rates covering this service, which rates are subject to the Interstate Commerce Act and filed with the Interstate Commerce Commission.

The divisions of revenue which accrue to Sea-Land are published in "Joint Division Sheets." These Joint Division Sheets are not required by the ICC to be filed on notice; thus these divisions do not constitute a regulated section of the joint rate tariffs.

Granting this exemption will not place Sea-Land in a severe competitive disadvantage as the division sheets and arrangements of the exempted carriers will be required to be filed at this Commission within 30 days of any change, as a condition to the exemption.

It appears that Sea-Land will not be placed at a severe competitive disadvantage regarding the availability of competitors' rates or divisions of rates for the port-to-port portion of the operations. In fact, the carriers which are granted this exemption are subject to the same rate regulation at the ICC as is Sea-Land, but the exempted carriers will also be subject to the filing requirement regarding division sheets and arrangements at this Commission.

Finally, we believe that Sea-Land has not shown that the proposed exemption would be detrimental to the commerce nor that it would substantially impair effective regulation by the Commission or be unjustly discriminatory.

Section 35 of the Shipping Act states, "The Federal Maritime Commission, upon application or on its own motion, may by order or rule exempt for the future any class of agreements between persons subject to this Act of any specified activity of such persons from any requirement of the Shipping Act, 1916, or Intercoastal Shipping Act, 1933, where it finds that such exemption will not substantially impair effective regulation by the Federal Maritime Commission, be unjustly discriminatory, or be detrimental to commerce.

"The Commission may attach conditions to any such exemption and may, by order, revoke any such exemption.

"No order or rule of exemption or revocation of exemption shall be issued unless opportunity for hearing has been afforded interested persons."

The granting of this exemption by this Commission appears to present no impairment to our effective regulation. Additionally, there has been no showing that this exemption is unjustly discriminatory or is detrimental to commerce.

Therefore, pursuant to section 4 of the Administrative Procedure Act, 5 U.S.C. 533; sections 18(b), 35 and 43 of the Shipping Act, 1916, 46 U.S.C. 817(b), 833(a), and 841(a), § 536.15, Title 46 CFR is amended by the addition of a new paragraph (e) reading as follows:

§ 536.15 Exemptions.

* * * * *

(e) Foss Launch & Tug Co. is granted an exemption from the tariff filing requirements of Section 18(b) of the Shipping Act, 1916, as to the carriage of Canadian or United States origin cargo moving in rail cars carried on Foss Launch & Tug Co.'s vessels between North Vancouver, British Columbia, Canada and Seattle and Tacoma, Washington, United States provided that the through rates are filed in railroad tariffs filed with the Interstate Commerce Commission and/or the Canadian Transport Commission and provided further that Foss Launch & Tug Co. shall submit to the FMC certified true copies of: 1) its division sheets or tariffs containing the divisions; and 2) any and all agreements, arrangements and concurrences entered into in connection with transportation of cargo within 30 days of the effectiveness of such sheets, tariffs, agreements, arrangements and/or concurrences; and provided further that this exemption shall not apply to cargoes originating in or destined to foreign countries other than Canada; and provided further that the carrier will remain subject to all other provisions of the Shipping Act, 1916.

Further, the provisions of this exemption are extended to all other water carriers participating in the through rail service between United States Puget Sound ports and ports in British Columbia, Canada; and between ports in British Columbia, Canada on the one hand, and ports and points in Alaska on the other hand. This extension of the exemption is subject to the same provisions and conditions which are listed above for Foss Launch & Tug Co.

Effective date: Inasmuch as the amendment adopted herein provides an exemption from the requirements of Part 536 and Section 18(b) of the Shipping Act, 1916, it shall be effective January 7, 1977.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-625 Filed 1-6-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20825; FCC 76-1176]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

State Control Internship Communications

Adopted: December 21, 1976.

Released: January 4, 1977.

In the Matter of amendments of Parts 81 and 83 of the Commission's Rules and Regulations to allow the use of 156.850 MHz (very high frequency marine channel 17) for State Control intership communications.

1. On August 5, 1976, we released a Notice of Proposed Rule Making in this Docket. The Notice was published in the FEDERAL REGISTER on August 9, 1976, (41 FR 33281). The dates for filing comments and replies thereto have passed.

2. In that Notice, we proposed to amend Parts 81 and 83 to make channel 17 available for ship to ship State Control communications, in addition to the previously authorized use for ship to coast State Control communications. It was felt that the designation of channel 17 for intership State Control use would allow for more effective coordination between state agencies, and also provide a clear channel for state boats in times of emergencies.

3. The only comments filed were by the California State Communications Division, in which they fully supported the Commission's proposal. No reply comments were filed.

4. The Commission believes that the rule amendment will provide for closer coordination among state boats and related shore stations which will result in an improvement to safety, law enforcement activities, and search and rescue operations in state waterways.

5. In view of the foregoing, It is ordered, That, pursuant to the authority contained in Sections 4(i), 303(b), (f) and (r) of the Communications Act of 1934, as amended, Parts 81 and 83 are amended effective February 7, 1977, as set forth below.

6. It is further ordered, That this proceeding is terminated.

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

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

NOTE.—Rule changes herein will be covered by the 1976 Edition of Volume IV.

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

1. In § 81.7, paragraph (r) is amended to read as follows:

§ 81.7 Operational.

* * * * *

(r) *State Control.* Communications, in the maritime mobile service on very high frequencies (VHF), between non-Federal government coast and ship stations or between non-Federal government ship stations, in which messages are restricted to those related directly to the coordination, regulation or control of boating activities or the rendering of assistance to vessels.

* * * * *

2. In § 87.356, subparagraph (b)(9) is amended to read as follows:

§ 81.356 Assignable frequencies in the band 156–162 MHz.

* * * * *

(b) * * *

(9) Available for assignment to limited coast stations for State Control communications with ship stations. Also available for intership State Control communications.

* * * * *

1. In § 83.6 paragraph (k) is amended to read as follows:

§ 83.6 Operational.

* * * * *

(k) *State Control.* Communications, in the maritime mobile service on very high frequencies (VHF), between non-Federal government coast and ship stations or between non-Federal government ship stations, in which messages are restricted to those related directly to the coordination, regulation or control of boating activities or the rendering of assistance to vessels.

* * * * *

§ 83.351 [Amended]

2. In § 83.351(a), table is amended by adding limitation 40 to the conditions of use for 156.850 MHz.

3. In § 83.359, table is amended as follows:

§ 83.359 Frequencies in the band 156–162 MHz available for assignment.

* * * * *

		State control	
17.....	156.850	156.850	Intership and ship to coast.

[FR Doc.77-756 Filed 1-6-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 36126]

PART 1241—ANNUAL, SPECIAL, OR PERIODIC REPORTS

PART 1249—REPORTS OF MOTOR CARRIERS

PART 1250—REPORTS OF WATER CARRIERS

PAT 1251—REPORTS OF FREIGHT FORWARDERS

Confidential Annual Report Supplement for Class I Carriers Revision to the Railroad Annual Report

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 20th day of December, 1976.

Upon consideration of the record in the above-entitled proceeding, including the petition, filed June 16, 1976, by the Association of American Railroads, for reconsideration of the report and order of the Commission, decided April 9, 1976 and served May 17, 1976, to which there were no replies; and

It appearing, That regulations adopted by said report do not appear necessary to fulfillment of the Commission's duties and responsibilities under the Interstate Commerce Act, at this time;

It further appearing, That information required by said regulations is presently available to the Commission through periodic audits of affected carriers.

It is ordered, That the petition for reconsideration be, and it is hereby, granted on the present record, and the proceeding dismissed.

It is further ordered, That the amendments to Parts 1241, 1249, 1250 and 1251 of Title 49 of the Code of Federal Regulations previously adopted in this proceeding be, and they are hereby, canceled.

By the Commission.[1]

ROBERT L. OSWALD,
Secretary.

EFFECT OF CANCELLATION UPON EXISTING REGULATIONS

In consideration of the foregoing: paragraph (b) to §§ 1241.11, 1241.21, 1241.31, 1241.61, and 1241.70 should be deleted; paragraph (b) to §§ 1249.1 and 1249.5 should be deleted; paragraph (b) to §§ 1250.10 and 1250.20 should be deleted; and paragraph (b) to § 1251.1 should be deleted.

[FR Doc.77-290 Filed 1-6-77;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 226—CHILD CARE FOOD PROGRAM

Appendix—Apportionment of Child-Care Nonfood Assistance Funds Pursuant to National School Lunch Act for Fiscal Year 1977

Pursuant to Section 17 of the National School Lunch Act, as amended by Pub. L. 94-105, child-care nonfood assistance funds available for the fiscal year ending September 30, 1977, are apportioned among the States as follows:

State	Total apportionment
Connecticut	$24,481
Maine	19,085
Massachusetts	58,964
New Hampshire	9,081
Rhode Island	12,898
Vermont	7,108
Total	131,617
Delaware	7,021
District of Columbia	12,961
Maryland	39,425
New Jersey	61,860
New York	213,883
Pennsylvania	128,573
Puerto Rico	109,046
Virginia	74,528
Virgin Islands	2,062
West Virginia	36,184
Total	685,543
Alabama	72,006
Florida	102,610
Georgia	98,290
Kentucky	56,150
Mississippi	65,507
North Carolina	100,990
South Carolina	68,047
Tennessee	66,287
Total	629,887
Illinois	$117,352
Indiana	51,651
Iowa	22,261
Kansas	20,561
Michigan	86,361
Minnesota	29,063
Missouri	49,315
Nebraska	15,305
Ohio	112,807
Wisconsin	45,040
Total	549,716
Arkansas	50,999
Colorado	36,869
Louisiana	100,774
Montana	14,338
New Mexico	39,771
North Dakota	8,348
Oklahoma	40,799
South Dakota	9,740
Texas	215,420
Utah	16,728
Wyoming	5,121
Total	538,907
Alaska	5,223
American Samoa	1,982
Arizona	39,771
California	313,371
Guam	1,466
Hawaii	12,856
Idaho	12,290
Nevada	5,803
Oregon	29,730
Trust Territory	1,260
Washington	40,578
Total	464,330
Total	$3,000,000

(Sec. 16(j), Pub. L. 94-105, 89 Stat. 522 (42 U.S.C. 1766(j).)

Dated: December 27, 1976.

P. ROYAL SHIPP,
Acting Administrator
Food and Nutrition Service.

[FR Doc.77-344 Filed 1-6-77;8:45 am]

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE DEPARTMENT OF AGRICULTURE

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Overtime Work at Border Ports, Seaports, and Airports

• Purpose: The purpose of this document is to amend 7 CFR 354.1 relating to charges for overtime work performed at airports outside of the regularly established hours of service.•

Agricultural quarantine inspectors of the U.S. Department of Agriculture are charged with performing inspection duties relating to imports and exports at border ports, seaports, and airports. Such services may be performed outside the regular tour of duty of the inspector when requested by a person, firm, or corporation and the charge for such overtime is recoverable from those requesting the services. The following document amends § 354.1, Overtime Work at Border Ports, Seaports, and Airports, by changing the overtime rate to be charged owners and operators of aircraft for work performed outside of the regularly established hours of service. One of the sections of the 1976 Amendments of the Airport and Airways Development Act provides that any required quarantine inspection service for operation of aircraft at airports during regularly established hours of service on Sundays and holidays will be performed without reimbursement from the owners or operators of the aircraft to the same extent such service had been performed during regularly established hours of service during weekdays, and by having any administrative overhead costs associated with such services at airports, also to be performed without reimbursement. These limitations of charges to owners and operators of aircraft for government inspection at airports are made in accordance with the Airport and Airways Development Act Amendments of 1976.

Pursuant to the authority conferred by the Act of August 28, 1950, (64 Stat. 561; 7 U.S.C. 2260) and the Airport and Airways Development Act Amendments of July 12, 1976, (90 Stat. 882; 48 U.S.C. 1741), § 354.1 of Part 354 Title 7, Code of Federal Regulations, the first sentence of § 354.1(a) is amended as set forth below:

§ 354.1 Overtime work at border ports, seaports, and airports.

(a) Any person, firm, or corporation having ownership, custody, or control of plants, plant products, animals, animal products, or other commodities or articles subject to inspection, laboratory testing, certification, or quarantine under this chapter and Subchapter D of Chapter I, Title 9 CFR, who requires the services of an employee of the Plant Protection and Quarantine Programs, on a Sunday or holiday, or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of Sunday or holiday or overtime service request the Plant Protection and Quarantine Programs inspector in charge to furnish inspection, laboratory testing, certification, or quarantine service during such overtime, or Sunday or holiday period, and shall pay the Government therefor at the rate of $21.32 per man-hour per employee on a Sunday and at the rate of $14.60 per man-hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, or at any time after 5 p.m. or before 8 a.m. on a weekday, in connection with the arrival in or departure from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture; and except that owners and operators of aircraft will be provided service without reimbursement during regularly established hours of service on a Sunday or holiday; and except that the overtime rate to be charged owners and operators of aircraft at airports of entry or other places of inspection as a consequence of the operation of

[1] A dissenting statement of Commissioners O'Neal and Murphy is filed as part of the original document.

aircraft, for work performed outside of the regularly established hours of service on a Sunday will be $17.52, and for work performed outside of the regularly established hours of service for holiday or any other period will be $10.84 per hour, which charges exclude administrative overhead costs.

* * * * *

(64 Stat. 561 (7 U.S.C. 2260); (Sec. 15 of Pub. L. 94-353, 90 Stat. 882) (49 U.S.C. 1741).)

Effective date: The foregoing amendment shall become effective January 1, 1977.

Determination of the hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. It is to the benefit of the public that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to the administrative provisions of 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., this 23rd day of December, 1976.

T. G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.76-38231 Filed 12-28-76;8:45 am]

(NOTE.—This document is being reprinted entirely without change from the issue of Wednesday, December 29, 1976.)

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 722—COTTON

1977 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

NATIONAL MARKETING QUOTA REFERENDUM RESULT

The regulation at 7 CFR 722.564 is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). This section announces the result of the national marketing quota referendum with respect to the 1977 crop of extra long staple cotton held during the period December 6 to 10, 1976, each inclusive.

Since the only purpose of § 722.564 is to announce the referendum result, it is hereby found and determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is unnecessary. Accordingly, § 722.564 shall be effective upon filing this document with the Director, Office of the Federal Register. The material previously appearing in this section as "Subpart—1976 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas" remains in full force and effect as to the crop to which it was applicable.

7 CFR 722.564 and the title to the subpart are amended to read as follows:

§ 722.564 Result of the national marketing quota referendum for the 1977 crop of extra long staple cotton.

(a) *Referendum period.* The national marketing quota referendum for the 1977 crop of extra long staple cotton was held by mail ballot during the period December 6 to 10, 1976, each inclusive, in accordance with § 722.561 (41 FR 45996) and Part 717 of this chapter.

(b) *Farmers voting.* A total of 987 farmers engaged in the production of the 1976 crop of extra long staple cotton voted in the referendum. Of those voting, 841 farmers, or 85.2 percent, favored the 1977 national marketing quota, and 146 farmers, or 14.8 percent, opposed the 1977 national marketing quota.

(c) *1977 national marketing quota continues in effect.* The national marketing quota for the 1977 crop of extra long staple cotton of 113,000 bales proclaimed in § 722.558 (41 FR 45996) shall continue in effect since two-thirds or more of the extra long staple cotton farmers voting in the referendum favored the quota.

(Sec. 343, 63 Stat. 670, as amended (7 U.S.C. 1343).)

NOTE.—The Agricultural Stabilization and Conservation Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Effective date: These amendments become effective on January 4, 1977.

Signed at Washington, D.C., on January 3, 1977.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-583 Filed 1-4-77;11:26 am]

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

[Lemon Reg. 74]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

PREAMBLE

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period January 9-15, 1977. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.374 Lemon Regulation 74.

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

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

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons is easier this week.

Average f.o.b. price was $5.03 per carton the week ended January 1, 1977 compared to $5.08 per carton the previous week.

Track and rolling supplies at 80 cars were down 10 cars from last week.

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

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set

forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on January 4, 1977.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period January 9, 1977 through January 15, 1977, is hereby fixed at 210,000 cartons.

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

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

Dated: January 5, 1977.

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

[FR Doc.77-847 Filed 1-6-77;11:48 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

[FPMR Amdt. G-38]

PART 101–38—MOTOR EQUIPMENT MANAGEMENT

Codification in 41 CFR 101 of the Motor Vehicle Management Policy in Federal Management Circular 74–1, Federal Energy Conservation

Federal Management Circular (FMC) 74–1, January 21, 1974, as amended, provides policy guidance for the executive branch concerning energy conservation. That circular is codified as 34 CFR Part 232. The policy and related guidance formerly appearing in Appendix A to 34 CFR Part 232 are revised as set forth below and redesignated as Subpart 101–38.13 of Title 41. Accordingly, Appendix A of 34 CFR Part 232 is hereby vacated and reserved.

The table of contents for Part 101–38 is amended by adding or revising the following entries:

Sec.
101–38.001–16 Types of vehicles.
101–38.001–17 Passenger automobiles.

Subpart 101–38.13—Energy Conservation in Motor Vehicle Management

101–38.1300 Scope.
101–38.1301 Applicability.
101–38.1302 General.
101–38.1303 Identification of passenger automobiles.
101–38.1304 Mandatory provisions affecting the acquisition and use of all motor vehicles.
101–38.1305 Mandatory provisions affecting the acquisition, use, and replacement of passenger automobiles.
101–38.1305–1 Large sedans and limousines.
101–38.1305–2 Law enforcement passenger automobiles.
101–38.1305–3 Diplomatic passenger automobiles.

Subparts 101–38.14—101–38.48 [Reserved]

Subpart 101–38.0—Definition of Terms

Section 101–38.001 is amended by revising §§ 101–38.001–8 and 101–38.001–9 and by adding new §§ 101–38.001–16 and 101–38.001–17 as follows:

§ 101–38.001 Definitions.

* * * * *

§ 101–38.001–8 Term rental.

"Term rental" means rental of a vehicle by a Federal agency by contract or other arrangement from a commercial firm for a period of 60 continuous days or more. It is synonymous with the word "leasing."

§ 101–38.001–9 Trip rental.

"Trip rental" means rental of a vehicle by a Federal agency from a commercial firm for a period of less than 60 days.

* * * * *

§ 101–38.001–16 Types of vehicles.

"Types of vehicles" means those vehicle types as described and designated in Federal specifications issued by the General Services Administration and in comparable military specifications.

§ 101–38.001–17 Passenger automobiles.

"Passenger automobiles" means those automobiles (other than automobiles capable of off-highway operation) which the Secretary of Transportation determines by rule are manufactured primarily for use in the transportation of not more than 10 individuals. For purposes of this Part 101–38, passenger automobiles shall mean those vehicles within the purview of Federal Specifications KKK–A–811 (Sedans), KKK–A–850 (Station wagons), and comparable military specifications. Upon determination by the Secretary of Transportation, additional vehicles may be included in this definition.

New Subpart 101–38.13 is added as follows:

Subpart 101–38.13—Energy Conservation in Motor Vehicle Management

§ 101–38.1300 Scope.

This subpart prescribes requirements and guidelines to promote energy conservation in the acquisition, operation, management, and maintenance of motor vehicles used for official purposes by the Federal Government.

§ 101–38.1301 Applicability.

This subpart is applicable to executive agencies located in the United States, its territories, or its possessions and which operate Government-owned, leased, or rented motor vehicles in the conduct of official business. This subpart does not apply to motor vehicles exempted by law or other regulations. Other Federal agencies are encouraged to comply with the requirements and guidelines of this subpart so that maximum energy conservation benefits may be realized in the operation and management of Government-operated motor vehicles.

§ 101–38.1302 General.

This subpart sets forth guidelines for the improvement of Government motor vehicle management and fuel conservation by providing vehicle assignment controls, reduction in vehicle size, promotion of vehicle pooling, and other actions to foster economical and fuel efficient utilization of Government motor vehicles.

§ 101–38.1303 Identification of passenger automobiles.

Passenger automobiles shall be identified according to the current edition of Federal Specifications KKK–A–811 and KKK–A–850 (GSA–FSS), as follows:

Sedan class (new)	Station wagon class (new)	Type (old)	Descriptive name
IA			Small.
IB	IB	IA	Subcompact.
II	II	IB	Compact.
III	III	II	Midsize.
IV	IV	III, IV, V	Large.
V		VI	Limousines.

The terms "economy," "economy sedans," and "economy vehicles" refer to classes IA, IB, and II passenger automobiles.

§ 101–38.1304 Mandatory provisions affecting the acquisition and use of all motor vehicles.

(a) Subject to exceptions listed in §§ 101–38.1305 through 101–38.1305–3, all motor vehicles acquired for use by executive agencies shall be selected to achieve maximum fuel efficiency and shall be limited to the minimum body size, engine size, and operational equipment (if any) necessary to fulfill the operational needs for which the vehicles were acquired.

(b) Subject to exceptions listed in §§ 101–38.1305 through 101–38.1305–3, all motor vehicles operated by executive agencies shall be used on a pooled basis to encourage the highest level of utilization.

(c) Executive agencies shall follow the provisions of 31 U.S.C. 638a(c)(2), which define and govern the use of motor vehicles for official purposes.

(d) All requirements for rented motor vehicles exceeding the maximum order limitation established in Federal Supply Schedule Industrial Group 751, Motor Vehicle Rental Without Driver, shall be

submitted to the General Services Administration as specified in § 101–39.601 (a) and shall include full justification of the need for the vehicle and certification that the class (type) of vehicle required is in conformance with provisions thereof.

(e) Executive agencies shall ensure that all agency-held motor vehicles receive tuneups in accordance with the guidelines set forth in § 101–38.1003.

§ 101–38.1305 Mandatory provisions affecting the acquisition, use, and replacement of passenger automobiles.

The acquisition of passenger automobiles by an executive agency shall be limited to class IA, IB, or II (small, subcompact, or compact) unless the agency certifies to the Administrator of General Services that a larger class vehicle is essential to the agency's mission.

§ 101–38.1305–1 Large sedans and limousines.

(a) Use of Government limousines (class V) and large (class IV) sedans shall be eliminated. Exceptions shall be made only for the President and Vice President and for security and highly essential needs. Executive agencies shall certify all exceptions to the Administrator of General Services.

(b) All classes IV and V sedans shall be replaced by class II or smaller sedans unless a class III is absolutely essential to the agency's mission and certified accordingly to the Administrator of General Services.

§ 101–38.1305–2 Law enforcement passenger automobiles.

Passenger automobiles exceeding classes IA, IB, and II in size shall be certified by the head of the law enforcement agency to the Administrator of General Services as essential for the security and safety of its law enforcement mission.

§ 101–38.1305–3 Diplomatic passenger automobiles.

Passenger automobiles exceeding classes IA, IB, and II in size shall be certified by the appropriate official in the Department of State to the Administrator of General Services as being essential for the security of diplomatic officials.

Subparts 101–38.14–101–38.48—[Reserved]

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

Effective date: This regulation is effective January 1, 1977.

The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: January 4, 1977.

JACK ECKERD,
Administrator of General Services.

[FR Doc.77–825 Filed 1–6–77;9:54 am]

Title 34—Government Management

CHAPTER II—GENERAL SERVICES ADMINISTRATION

PART 232—FEDERAL ENERGY CONSERVATION

Federal Motor Vehicle Management

CROSS REFERENCE: For a document which redesignates and transfers the provisions of 34 CFR Part 232, Appendix A, to 41 CFR Part 101–38, Subpart 101–38.13, see FR Doc. 77–825 appearing under Title 41 in the Rules and Regulations section of this issue of the FEDERAL REGISTER.

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 AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revised Pages of REA Specification PE–71 for Inside Wiring Cable

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 345–59 to announce revised pages 6 and 10 and new page 10a of REA Specification PE–71 for inside wiring cable. On issuance of REA Bulletin 345–59, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the revised pages of the specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250 on or before February 7, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the revised pages 6 and 10, and new page 10a to REA Specification PE–71 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of revised REA Bulletin 345–59 announcing the revised pages of the specification is as follows:

REA BULLETIN 345–59

SUBJECT: REA Specification PE–71 for Inside Wiring Cable.

I. *Purpose:* To announce issuance of revised pages 6 and 10 and new page 10a of REA Specification PE–71 for Inside Wiring Cable.

II. *General:* Changes have been made requiring binder threads or tapes, core covering and slitting cord to be made of nonhygroscopic and nonwicking materials. In addition, a test procedure is established to determine that the completed cable meets long-term electrical stability requirements after having been subjected to high relative humidity and temperature cycling.

The revised pages 6 and 10 and new page 10a will each bear a revision date of January 1977. Pages 6 and 10 of REA Specification PE–71 dated March 1971 should be removed and replaced by the enclosed pages dated January 1977. These changes become effective April 1, 1977.

III. *Availability of Specification Changes:* Copies of the revised pages and new page of PE–71 will be furnished by REA upon request. Questions concerning these changes may be referred to the Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202 447–3827.

Dated: December 22, 1976.

C. R. BALLARD,
Assistant Administrator—Telephone.

[FR Doc.77–345 Filed 1–6–76;8:45 am]

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Revised Pages of REA Specification PE–72 for Switchboard Cables

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 USC 901 et seq.), REA proposes to revise REA Bulletin 345–61 to announce revised pages 5, 6, 10 and new page 10a of REA Specification PE–72 for switchboard cables. On issuance of REA Bulletin 345–61, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the revised pages of the specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, on or before February 7, 1977. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the revised pages 5, 6, 10 and new page 10a to REA Specification PE–72 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of revised REA Bulletin 345–61 announcing the revised pages of the specification is as follows:

REA BULLETIN 345–61

SUBJECT: REA Specification PE–72 for Switchboard Cables.

I. *Purpose:* To announce issuance of revised pages 5, 6, 10 and new page 10a of REA Specification PE–72 for Switchboard Cables.

II. *General:* Changes have been made requiring binder threads or tapes, core covering and slitting cord to be made of nonhygroscopic and nonwicking materials. In addition, a test procedure is established to determine that the completed cable meets long-term electrical stability requirements after having been subjected to high relative humidity and temperature cycling.

The revised pages 5, 6, 10 and new page 10a will each bear a revision date of January 1977. Pages 5, 6 and 10 of REA Specification PE–72 dated February 1970 should be removed and replaced by the enclosed pages dated January 1977. These changes become effective April 1, 1977.

III. *Availability of Specification Changes:* Copies of the revised pages and new page of PE–72 will be furnished by REA upon request. Questions concerning these changes may be referred to the Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202–447–3827.

Dated: Dec. 22, 1976.

C. R. BALLARD,
Assistant Administrator—Telephone.

[FR Doc.77–346 Filed 1–6–77;8:45 am]

Food and Nutrition Service

[7 CFR Parts 270, 271, 275]

[Amdt. 99]

FOOD STAMP PROGRAM

Proposed Rulemaking Regarding Coupon Vendors and State Agencies

Pursuant to the authority contained in the Food Stamp Act of 1964, as amended (7 U.S.C. 2011–2026), notice is hereby given that the Food and Nutrition Service, Department of Agriculture, intends to amend Parts 270, 271, and 275 of its regulations governing the operation of the Food Stamp Program. These regulatory provisions are proposed in response to Congressional directives contained in the "Emergency Food Stamp Vendor Accountability Act of 1976," (Pub. L. 94–339; July 5, 1976), hereinafter referred to as the Emergency Accountability Act.

Those sections of the Emergency Accountability Act, amending the Food Stamp Act of 1964 at sections 6 (b)(1) and (c)(1) and at sections 7(d) (2)(A), (3)(A), (4)(A), (5)(A), specifically direct the Secretary to promulgate regulations setting forth duties and responsibilities of coupon vendors and State agencies. Sections of the Emergency Accountability Act, incorporated as new sections 6(b)(1) and 7(d)(6) of the Food Stamp Act, specifically grant authority to the Secretary to promulgate regulations imposing reporting requirements on State agencies and coupon vendors. This rulemaking executes those explicit Congressional directives and proposes needed improvements in the coupon and cash accountability provisions of the Food Stamp Program.

The urgent need for stricter controls on coupon vendors and State agencies is detailed in the Senate [1] and House [2] Re-

[1] Senate Report No. 94–714 (March 29, 1976).

[2] House Report No. 94–1282 (June 18, 1976).

ports on the Emergency Accountability Act. Those reports point out, for example, that "* * * vendors have wrongfully withheld money they accumulated from the sale of food stamp coupons, and * * * used the money for their own purposes." (Senate Report, at 4.) A Department of Agriculture nationwide audit, begun in October 1975, discovered that 1,300 food stamp vendors "* * * apparently were not making timely deposits of the money they had collected on food stamp purchases, [and that] 12 vendors were unable to account for $5,669,840 between sales and deposits, and 14 were found to be slow in making deposits that totaled $6,831,428." (Senate Report, at 4, 5.) Moreover, the Senate and House Reports make clear that some State agencies have not exercised sufficient control over issuance and accountability sytems. (See Senate Report, at 5, and House Report, at 7.) The Senate Report, at 5, concluded that "* * * [t]imely and accurate reports of receipts and deposits are necessary to enable States to monitor vendor activities adequately." Departmental audits have identified serious vendor abuses and related problems; these include the discovery of coupon inventory shortages, vendor failure to establish separate accounts for food stamp funds, and the use of food stamp receipts for personal benefit.[2] The House Report pointed out that Department audits of 79 selected agents revealed late deposits of $18,500,000, coupon shortages of $98,000, and nondeposits of over $6,000,000.[3] Subsequent Departmental investigations uncovered additional instances of late deposits, shortages, and nondeposits. A tabulation of the results of those investigations is contained in the House Report, supra, at 6.

The regulations proposed herein are designed to reduce or eliminate the vendor abuses identified in Congressional Reports and Departmental investigations. The regulations strengthen State and Federal controls over vendor activity and establish procedures to closely monitor food stamp inventories to safeguard against vendor misuse and minimize coupon and cash exposure to loss.

Additionally, these regulations specify State agency and vendor responsibilities for coupon and cash receipts; set forth standards for the delivery of coupon inventories; and provide, in accordance with the Emergency Accountability Act, that coupon vendors are fiduciaries of the Federal Government and that funds they receive are Federal funds. The regulations also restate the criminal sanctions imposed by the Emergency Accountability Act for violations of the regulations promulgated by the Secretary.

Part of Section 3 of the Emergency Accountability Act, incorporated as Section 6(c)(1) of the Food Stamp Act, requires the Secretary to establish procedures for safeguarding coupons in the possession of vendors. However, specific regulatory requirements for security provisions are being deferred and 7 CFR 271.6(d)(2) is reserved for future rulemaking. Receipts from coupon issuances, as provided by 7 CFR 271.6(e), are also to be safeguarded in the manner to be prescribed by 7 CFR 271.6(d)(2). Because of the variety of coupon storage and issuance facilities currently in use, security procedures adaptable to each location are difficult to specify. The comment period affords an opportunity for interested persons to suggest minimum security standards, recognizing the possibility of criminal prosecution for failure to comply with such regulations as required by new Section 6(c)(2) of the Food Stamp Act. Currently, suggested security measures and a security checklist for food coupon vendors are outlined in FNS(FS) Instruction 733-3, A Security Program for Governmental Issuance Offices, which may serve as a useful reference to those interested in commenting.[4]

Amendments to 7 CFR 270.3(b) and 275.15(j)(2), on issuance agent contractual criteria and on payments to outlets for food stamp transactions, were proposed at 41 FR 11532 (March 19, 1976). These proposals stipulate provisions for issuance contracts and provide that payments to vendors be withheld until the State agencies receive transacted sales records and confirmations of deposits. Some technical changes were made on the basis of comments already received; and the proposed amendments, with revisions, are republished in proposed form herewith. Specifically, the language previously amending 7 CFR 270.3(b) has been republished as part of 7 CFR 271.6(g)(1). Comments previously received on these amendments will again be considered. Additional comments will be considered prior to isuing the final regulatory amendment.

Under these regulations, employees of the State agency, other agencies of the State, and political subdivisions, engaged in the issuance of coupons are included within the definition of "coupon vendor" and are subject to all penalties prescribed for coupon vendors. However, the regulations, in a manner consistent with sections 3(o) and 7(d)(7) of the Food Stamp Act, as amended, exclude the U.S. Postal Service from the definition of "coupon vendor" for the purposes of the regulations. The Postal Service regulatory exemptions are in accord with the Congressional intent set forth in the House and Senate Reports where it was stated that "* * * [t]he term 'coupon vendor' is not intended to include the Federal Government itself or its employees where arrangements have been made for one of its agencies to issue food stamps—for example where the Secretary and the Postal Service have established a program for the Postal Service to provide issuance services." (Senate Report at 7, House Report at 8.) The statutory and regulatory exemptions regarding the Postal Service will provide the flexibility needed to accommodate the policies and requirements of the Postal Service and insure its continued participation in the Food Stamp Program.

Interested parties should submit written comments, suggestions, or objections regarding the proposed amendments to Nancy Snyder, Director, Food Stamp Division, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250, not later than February 7, 1977. All comments, suggestions or objections received by this date will be assured of consideration before final regulations are issued.

All written comments, suggestions, or objections will be open to public inspection pursuant to 7 CFR 1.27(b) at the Office of the Director, Food Stamp Division, Room 650, 500 12th Street, S.W., Washington, D.C., during regular business hours (8:30 a.m. to 5:00 p.m. Monday through Friday).

The new provisions governing the setting aside of all funds collected from the sale of coupons as Federal funds, 7 CFR 271.6(h)(4), their prompt deposit, 7 CFR 271.6(h)(5), and the criminal penalties applicable for failure to do so, and the provisions of 7 CFR 271.6(e)(1) concerning State agency arrangements for deposits, shall be effective upon final publication of the regulations. New provisions defining a coupon vendor, 7 CFR 270.2(nn), and governing the responsibilities of FNS, in 7 CFR 271.6(a)(1)–(4), shall also be effective upon final publication.

All other rvised provisions governing State agency and coupon vendor responsibilities shall be implemented by the State agencies not later than September 30, 1977. These provisions shall be implemented concurrently with or following implementation of an electronic funds transfer system to be used for the deposit of and accounting for food stamp cash receipts.

At the present time FNS is developing a nationwide Electronic Funds Transfer System (EFTS). A small pilot EFTS is operating in several project areas on the East and West coasts. Under this system issuance agents deposit food stamp sales receipts in an account established at a local bank (bank issuance agents will act as their own local bank). After each deposit, the agent places a telephone call (toll free) to a commercial service; this service collects deposit information and on a daily basis transmits this information, via telecommunications, to a concentration bank. This bank collects the cash deposited in the local banks and transfers the money, via wire, to the FNS Treasury account. The system will provide State agencies and FNS with reports on each agent's depositing activities.

[2] Senate Report, supra.

[3] House Report, supra, at 5. See also "Summary of Reviews made of Food Stamp Fiscal Operations," USDA Office of Audit, Report No. 2799-8-Hy (March 30, 1976).

[4] Copies of FNS Instruction 733-3 and the USDA Office of Audit Report No. 2799-8-Hy may be obtained upon request from: Nancy Snyder, Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Therefore, it is proposed to amend Parts 270, 271, and 275 of Chapter II, Title 7 CFR as follows:

PART 270—GENERAL INFORMATION AND DEFINITIONS

1. Section 270.2 is amended by adding a new paragraph (nn) to read as follows:

§ 270.2 Definitions.

* * * * *

(nn) "Coupon vendor" means any person, partnership, corporation, organization, political subdivision, or other entity with which a State agency has contracted for, or to which it has delegated administrative responsibilities in connection with, the issuance of coupons to eligible households. Offices of the United States Postal Service shall not be considered coupon vendors for the purposes of these regulations.

2. Section 270.4 is amended by adding new paragraphs (e), (f), and (g) to read as follows:

§ 270.4 Coupons as obligations of the United States, crimes and offenses.

* * * * *

(e) Pursuant to Section 6 and 7 of the Food Stamp Act, any coupon vendor, or any officer, employee, or agent thereof shall be subject to a fine of not more than $3,000 or imprisonment for not more than one year, or both, upon being convicted of the following acts:

(1) Violations of regulations relevant to the delivery of coupons and the custody, care, control and storage of coupons in the hands of coupon vendors to secure such coupons against theft, embezzlement, misuse, loss, or destruction in accordance with § 271.6(d)(2);

(2) Failure to provide FNS with a monthly report of inventory levels in accordance with § 271.6(h)(3);

(3) Failure to deposit funds derived from the sale of coupons in accordance with § 271.6(h)(5);

(4) Failure to provide the State agency with a written notice confirming such deposits in accordance with § 271.6(h)(6); or

(5) Failure to provide FNS with a monthly written report of issuance operations in accordance with § 271.6(h)(7).

(f) Pursuant to Sections 6(b) and 7(d) of the Food Stamp Act, any coupon vendor, or any officer, employee, or agent thereof, who knowingly provides false information in any report required by § 271.6(h) shall, upon conviction, be subject to a fine of not more than $10,000, or imprisonment for not more than 10 years, or both.

(g) Pursuant to Section 7(d)(3) of the Food Stamp Act, any coupon vendor, or any officer, employee, or agent thereof, convicted of using funds derived from the sale of coupons for the benefit of any person, partnership, corporation, association, organization, or entity other than the Federal Government, prior to the deposit of such funds as required by these regulations, shall be subject to a fine of not more than $10,000, or a sum equal to the amount of funds involved in the violation, whichever is the greater, or imprisonment for not more than ten years, or both; *Provided*, That if the amount of such funds is less than $1,000, such vendor shall be subject to a fine of not more than $3,000, or imprisonment for not more than one year, or both.

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

3. Section 271.6 is amended by deleting paragraphs (b) and (f). Paragraph (a) is amended. Paragraphs (c), (d), and (e) are relettered (b), (c), and (c)(6), respectively, and the newly designated paragraph (b) and the first sentence of paragraph (c) are amended. New paragraphs (d), (e), (f), (g), and (h) are added. Paragraphs (g), (h), and (i) are relettered (i), (j), and (k), respectively, and newly designated paragraph (i) is revised and redesignated paragraph (j) is amended. The new and amended paragraphs of § 271.6 read as follows:

§ 271.6 Methods of distributing, issuing, and accounting for coupons and receipts.

(a) *Responsibilities of FNS.* (1) FNS shall distribute coupons, printed in such denominations as it may determine necessary, directly to the receiving points the State agency has designated in its Plan of Operation. FNS shall bear the risk of loss for coupons while in transit to receiving points.

(2) FNS shall promptly advise the State agency when coupons are shipped to receiving points.

(3) FNS shall assess the reasonableness and propriety of food stamp requisitions submitted by State agencies based on prior months' inventory changes and shall notify the State agency of all adjustments to such requisitions regardless of who initiated the change.

(4) FNS shall notify the State agency each time there is a change in the coupon allotment tables.

(5) FNS shall review monthly reports of vendors' activities, submitted through the State agency in accordance with § 271.6(h)(7), for adequacy, accuracy, and reasonableness; reconcile cash with reports issued by the Federal Reserve Banks; and reconcile inventory with shipping records maintained by FNS. FNS shall review State agency verification of coupon vendor monthly reports and reserves the right to supplement this review by unannounced spot checks of inventory levels at selected receiving and issuance points.

(6) FNS shall review monthly reports from the State agency submitted in accordance with § 271.6(f) for adequacy, accuracy, and reasonableness.

(7) FNS may bill the State agency on a monthly basis for fiscal discrepancies as provided in § 271.7 of this subchapter.

(b) *State agency responsibilities for issuance.* The State agency is responsible for the acceptance, storage, and protection of coupons, after delivery to receiving points within the State; the issuance of coupons to eligible households; the control and accountability for coupons and cash receipts; and the submission to FNS of verified vendor activity reports and other reports in accordance with the provisions of this subchapter. The State agency shall monitor the activities of individual coupon vendors to assure compliance with the requirements of § 271.6(h), shall identify and correct deficiencies and report violations of the Food Stamp Act or regulations to FNS. Notwithstanding any other provisions of this subchapter, and notwithstanding any contractual agreement between State agencies and coupon vendors, State agencies shall retain fiscal liability on claims asserted under § 271.7 and shall be responsible for the compliance of coupon vendors with all applicable program requirements.

(c) *Method of Coupon Issuance.* The State agency shall arrange for the issuance of coupons to eligible households and for the collection of sums required from eligible households for the purchase requirement.

* * * * *

(d) *State agency responsibilities for coupon accountability.* (1) The State agency shall arrange for the ordering of coupons and the prompt verification of and the receipting for the contents of each coupon shipment. The State agency shall furnish FNS with the name of the person or persons authorized to sign receipts which acknowledge delivery of coupons. Deliveries of coupons shall be made only after an authorized person has signed the proper receipt.

(2) (Reserved for coupon security requirements.)

(3) The State agency shall monitor coupon inventories in the hands of receiving and issuance points to ensure inventories are at proper levels and are not in excess of the reasonable needs of such vendors. The State agency shall, at a minimum:

(i) Consider, among other things, in determining the reasonable needs of coupon vendors for inventory levels, the ease and feasibility of resupplying such inventories from bulk storage supplies within the State as well as the shipments of coupons from FNS. Such inventory levels shall not exceed a six month supply at either receiving or issuance points. The six month limitation applies to coupons on order in addition to coupons on hand at the issuance point.

(ii) Establish an accounting system for monitoring the activities of each receiving and issuance point. The State agency shall review the monthly coupon inventory reports from receiving and issuance points and shall determine the propriety and reasonableness of these inventories. Perpetual inventory records, Advices of Shipment, transfer documents, reports of returned Public Assistance Withholding (PAW) and mail issued coupons, reports of replacements of undelivered PAW and mail issued coupons, reports of improperly manufactured or mutilated coupons and reports of shortage or overage of food coupon books shall be used by the

State agency to assure the accuracy of monthly coupon inventory reports, compliance with inventory levels as required by subsection 3(i) of this subsection and the accuracy and reasonableness of coupon orders.

(iii) Take one unannounced physical inventory, at least yearly, at each bank and bulk storage facility; and, at least semiannually, at all other issuance points.

(4) The State agency shall require every official or employee, except officials and employees of the United States Postal Service, who is responsible for receiving and issuing coupons or accepting cash or other receipts from eligible households to be covered by an appropriate form of surety bond in favor of the State agency. The amount of such surety bond shall be adequate to protect the financial interests of the State agency.

(e) *State agency responsibilities for arranging for accounting for cash receipts.* (1) The State agency shall arrange for the continuous safeguarding of all receipts from coupon sales in accordance with the security requirements for coupons required by § 271.6(d)(2). The State agency shall arrange for the transfer of funds, received from the sale of coupons, to the appropriate Federal Reserve Bank (FRB) to the credit of the Treasurer of the United States via negotiable instruments or electronic funds transfers. The State agency shall arrange for the completion and delivery of a deposit document with each transmittal of funds to the FRB or shall provide for electronic funds transfers. Each such transfer of funds, as prescribed by FNS, shall be considered one deposit. The State agency shall provide that funds received from coupon sales be deposited at least weekly; *Provided*, That when such funds accumulate to $1,000 or more at any coupon sales location, the State agency shall arrange for the deposit of such funds to the FRB within one banking day following the day when the funds reached or exceeded $1,000, unless extraordinary conditions prevent such deposit, in which case such deposit shall be made within two banking days following the accumulation of such amount; and *Provided further*, That the State agency shall arrange for the deposit of all collections on hand, at any sales location at the end of the issuance month, regardless of amount, within one banking day following the last issuance day of the month, unless extraordinary conditions prevent such deposit, in which case such deposit shall be made within two banking days following the end of the issuance month.

(2) The State agency shall establish an accounting system to monitor compliance with the depositing requirements. The State agency shall compare notices of deposit received from coupon vendors, as required in § 271.6(h)(6), against ATP cards supporting such deposits for accuracy and compliance with depositing frequencies as outlined in § 271.6(h)(5). The State agency shall further reconcile such records against monthly reports received from such vendors, as required in § 271.6(h)(7), and confirm that deposits were made to the Treasury account of FNS.

(f) *State agency reporting requirements.* (1) The State agency shall review monthly reports received from coupon vendors, as required in § 271.6(h), for adequacy, accuracy, and reasonableness through the accounting system established in §§ 271.6(d)(3) and (e)(2). The State agency shall attest to the accuracy of these reports and submit them to FNS with consolidated reports summarizing coupon vendor activity.

(2) In any issuance system which uses ATP cards, the State agency shall further reconcile all coupon issuances with a master file of certified eligible households. The State agency shall report monthly to FNS, on a consolidated basis, the results of such reconciliation.

(g) *Issuance contracts.* (1) In accordance with § 270.3(b), the State agency may delegate, by contract, the duty to issue coupons to a coupon vendor. All contracts with coupon vendors shall be made in accordance with the procurement standards contained in § 275.15 of this subchapter.

(2) The State agency shall include in issuance contracts provision for the payment of interest on late deposits at 6 per centum per annum which interest shall be compounded daily from the date on which receipts were due to be deposited through the actual date of deposit.

(3) The State agency shall not contract for the issuance of coupons with any firm, or agency thereof, which is authorized to redeem coupons from households unless the State agency, with FNS concurrence, determines that such an arrangement would best achieve the purposes of the program.

(h) *Responsibilities of coupon vendors.* (1) Coupon vendors shall promptly verify and receipt for the contents of each coupon shipment delivered to them and shall be administratively responsible for the custody, care, control, and storage of coupons to secure such coupons against theft, embezzlement, misuse, loss, or destruction in accordance with written instructions issued by State agencies pursuant to § 271.6(d) of this subchapter.

(2) Coupon vendors shall maintain a proper level of coupon inventory, not in excess of reasonable needs, taking into consideration the ease and feasibility of resupplying such coupon inventories. The inventory levels shall not exceed a six month supply in accordance with § 271.6(d)(3)(i).

(3) Coupon vendors shall report monthly to FNS, through the State agency, on their inventory levels and shall forward to the State agency supporting documents for all coupon shipments and transfers.

(4) Coupon vendors shall receive funds from the sale of coupons as fiduciaries of the Federal Government. Coupon vendors shall immediately set aside all such funds as funds of the Federal Government, shall deposit the funds in the manner prescribed in § 271.6(h)(5) and shall not use such funds, prior to deposit, for the benefits of any person, partnership, corporation, association, organization, or entity other than the Federal Government. All such funds, prior to deposit, shall be safeguarded at all times from theft, embezzlement, misuse, loss or destruction as required by § 271.6(d)(2) for the security of food coupons.

(5) Coupon vendors shall transfer funds received from the sale of coupons to the appropriate FRB to the credit of the Treasurer of the United States via negotiable instruments or electronic funds transfers. Coupon vendors shall complete and send a deposit document with each transmittal of funds to the FRB or shall initiate an electronic funds transfer. Each such transfer of funds, as prescribed by FNS, shall be considered one deposit.

Coupon vendors shall deposit funds received from coupon sales at least weekly; *Provided*, That when such funds accumulate to $1,000 or more at any coupon sales location, coupon vendors shall deposit such funds to the FRB within one banking day following the day when the funds reached or exceeded $1,000, unless extraordinary conditions prevent such deposit, in which case such deposit shall be made within two banking days following the accumulation of such amounts; and *Provided further*, That coupon vendors shall deposit all collections on hand at any sales location at the end of the issuance month regardless of the amount of such funds within one banking day following the last issuance day of the month, unless extraordinary conditions prevent such deposit, in which case such deposit shall be made within two banking days following the end of the issuance month; and *Provided further*, That with regard to a maximum of $1,200 per month from Public Assistance Withholding collections only, with the approval of the Secretary, deposit by a State agency in its capacity as a coupon vendor, shall occur when such amount has been deposited in a joint FNS–State agency special trust account within the prescribed time limits. Such account shall be drawn upon by the State agency solely for the purpose of issuing refunds to PAW households electing not to participate in the Food Stamp Program for the month in which the deposit was made. Within two banking days after the last day of the month in which the deposit was made the State agency shall arrange for the transfer of all unused funds from such account to the appropriate FRB to the credit of the Treasurer of the United States.

(6) Coupon vendors shall, immediately upon deposit of funds from the sale of coupons, send a written notice to the State agency confirming such deposit. The written notice shall be accompanied by a copy of the deposit document and, in issuance systems using ATP cards, the transacted ATP cards supporting such deposit. At a minimum, the written notice shall contain:

(i) The name and address of the coupon vendor;

(ii) The total receipts derived from the distribution of coupons during the deposit period;

(iii) The amount of the deposit;

(iv) The name and address of the depository; and

(v) An oath, or affirmation, signed by the coupon vendor, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon vendor, certifying that the information contained in such notice is true and correct to the best of such person's knowledge and belief.

(7) Coupon vendors shall report monthly to FNS, through the State agency, on issuance operations during the monthly reporting period. The report shall contain:

(i) The name and address of the coupon vendor;

(ii) The total receipts derived from the sale of coupons during the month;

(iii) The total amount of deposits;

(iv) The name and address of each depository receiving such funds; and

(v) An oath, or affirmation, signed by the coupon vendor, or in the case of a corporation or other entity not a natural person, by an appropriate official of the coupon vendor, certifying that the information contained in the report is true and correct to the best of such person's knowledge and belief.

(i) *State agency issuance instructions.* The State agency shall issue written program instructions for personnel responsible for all activity in connection with the issuance of coupons. No State agency instruction, or interpretation of FNS instructions, shall be issued without prior approval by FNS, unless FNS fails to respond to a request for approval within 30 days after the acknowledgment of its receipt by FNS.

(j) *United States Postal Service.* Fiscal practices with respect to funds collected from the sale of food coupons by the United States Postal Service and other responsibilities of the United States Postal Service in regard to the issuance of food coupons are prescribed by interagency agreement between the United States Postal Service and the Department.

* * * * *

4. Section 271.7 is amended by revising paragraph (d), by adding new paragraphs (e) and (f) and redesignating present paragraphs (e) and (f) paragraphs (g) and (h), respectively. The new and amended paragraphs read as follows:

§ 271.7 Financial liabilities of the State agency.

* * * * *

(d) The State agency shall be liable to FNS for any overissuance of coupons or undercollection of cash as a result of mathematical or changemaking errors by personnel of any issuing office. The State agency shall also be liable to FNS for the bonus value of all coupons purchased through the use of expired documents or through the use of documents which are stolen or embezzled from, or lost by, the State agency.

(e) The State agency shall be liable for the loss or late deposit of any funds collected, or that should have been collected, from the sale of coupons within the State. FNS may demand payment of interest on late deposits at 6 per centum per annum which interest shall be compounded daily from the date on which receipts were due to be deposited through the actual date of deposit.

(f) FNS may, on a monthly basis, make demand on each State agency for any losses of cash or coupons reported in accordance with § 271.6(f)(2) of this subchapter, or otherwise determined.

* * * * *

PART 275—PAYMENT OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

5. Section 275.15 is amended by adding to paragraph (j)(2) a new subparagraph (v) to read as follows:

§ 275.15 Procurement standards.

* * * * *

(j) *Contract provisions.* * * *

(2) *Provisions.* * * *

(v) Contracts through which the State agency delegates its administrative responsibility for the issuance of coupons shall contain clear provisions for performance and compensation. Such contracts shall provide that State agencies shall make payment to the contractor for issuance services only after the State agencies receive: ATP cards representing the issuance transaction; properly executed reports accounting for the cash and coupons involved in the transactions; and written notices from the coupon vendors confirming the deposit of funds in accordance with § 271.6 of this Part.

* * * * *

NOTE: It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with Executive Order 11821.

(78 Stat. 703, as amended, 7 U.S.C. 2001l-2026)

(Catalog of Federal Domestic Assistance Programs, No. 10.551, National Archives Reference Services)

Dated: January 3, 1977.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.77-536 Filed 1-6-77;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Part 92]

RESTRICTIONS ON IMPORTATION OF BIRDS

Extension of Time for Submission of Comments

This notice extends the time period for submitting written comments, data, views and other information with respect to proposed restrictions on importation of birds into the United States, as published in the FEDERAL REGISTER November 12, 1976 (41 FR 50000), from December 14, 1976 to February 12, 1977. Certain representatives of importers of birds have requested that the comment period be extended an additional 60 days in order to give them adequate time to obtain relevant data and information and to develop sound views and comments.

Since the Department is interested in receiving meaningful views and comments, these circumstances are considered ample justification for an extension of the time period originally allotted for submitting views and comments.

Therefore, written comments and other material relating to this matter may be submitted to the Deputy Administrator, Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, Federal Building, Hyattsville, Maryland 20782, on or before February 12, 1977.

Done at Washington, D.C., this 23rd day of December 1976.

J. M. HEJL,
Deputy Administrator, Veterinary Services.

[FR Doc.76-38230 Filed 12-28-76;8:45 am]

(NOTE: This document is being reprinted entirely without change from the issue of Wednesday, December 29, 1976.)

FEDERAL TRADE COMMISSION

[16 CFR Part 438]

ADVERTISING, DISCLOSURE, COOLING-OFF AND REFUND REQUIREMENTS CONCERNING PROPRIETARY VOCATIONAL AND HOME STUDY SCHOOLS

Proposed Trade Regulation Rule; Public Availability of Staff Report to the Commission

Pursuant to Section 1.13(g) of the Commission's Rules, the staff has made its report, containing its analysis of the record and its recommendations as to the form of the final rule, to the Commission. The report is now available for public comment under Rule 1.13(h). Copies of the report may be obtained from the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Comment will be accepted on both the staff report and the presiding officer's report, which has previously been made public (see 41 FR 47267 (Oct. 28, 1976)), for a period of sixty days ending on March 8, 1977. Comments should be identified as "Comment on Presiding Officer and Staff Reports—Vocational School TRR," and addressed to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, and submitted, when feasible and not burdensome, in five copies.

The Commission cautions all concerned that the staff report has not been reviewed or adopted by the Commission, and that its publication should not be interpreted as reflecting the present

views of the Commission or of any individual member thereof.

By direction of the Commission, dated December 21, 1976.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-554 Filed 1-6-77; 8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1301]

REFUSE BINS

Proposed Rule Under the Consumer Product Safety Act To Declare Certain Refuse Bins as Banned Hazardous Products

The purpose of this document is for the Consumer Product Safety Commission (Commission) to propose an amendment to provisions of the regulations under the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051-2081) by declaring as banned hazardous products certain unstable refuse bins having a capacity greater than one cubic yard (figure 1). The Commission is seeking written comment on the proposal and allowing an opportunity for oral presentation, as provided below.

BACKGROUND

On January 3, 1975, Stephen R. Redmond, the Commissioner of Health of Dutchess County, New York, petitioned the Commission to commence an appropriate proceeding to establish safe design criteria for the manufacture of refuse bins. A report accompanying the petition gave details of two serious accidents that occurred when children were playing or swinging on slant-sided refuse bins. The bins capsized, injuring two children, one fatally.

The petitioner believes that slant-sided refuse bins are unstable because the center of gravity is offset by virtue of their design and that any weight added to them, such as the weight of children hanging on or swinging on the slant side, tends to topple them. Therefore, he asks that corrective action be taken to prohibit further use of the unsafe bins and that safe design criteria be established for future use.

Thereafter, the Commission staff undertook a study to determine the use patterns and the nature of the alleged hazards associated with unstable refuse bins described in the petition.

The Commission staff studied nine in-depth investigation reports of accidents associated with refuse bins. Of the nine accidents, six were a result of refuse bins tipping over; five of these accidents were fatal. In all cases except one, the accident pattern was similar to that cited by the petitioner. In that one exception, the bin appeared to have capsized spontaneously. In addition, the Commission is aware of two other fatalities associated with refuse bins.

Tests by the Commission's Bureau of Engineering Sciences show that some slant-sided refuse bins with about a three cubic yard capacity can be tipped over by a force of as little as 44 pounds acting horizontally or 55 pounds acting vertically downward on the lip of the bin. Influencing factors include the inclination of the ground surface, the position of the lids, the orientation of the swivel wheels, and the location of the refuse within the bin.

The Commission's Office of Product Defect Identification (OPDI), and field offices studied the nature of manufacture and use patterns of slant-sided refuse bins. The OPDI survey indicates that some trash collection firms are aware of the inherent instability of their refuse bins and a few have modified units by adding braces or extensions to lessen the probability of capsizing.

The Commission's Office of Information and Education previously issued an informational fact sheet on the hazards surrounding certain unstable trash bins.

SUMMARY OF PROPOSAL

1. *Jurisdictional scope of proposed ban.* By virtue of the definition of the terms "distribute" and "commerce" in sections 3(a)(11) and (12) of the CPSA (15 U.S.C. 2052(a)(11) and (12)) the Commission has jurisdiction over consumer products which, among other things, are manufactured or offered for sale or distributed, directly into or in a manner otherwise affecting, interstate commerce. More specifically, "distribution in commerce" may include not only the sale, delivery for or the introduction, into interstate commerce, but the holding for sale or distribution *after* introduction, into commerce.

Based on this definition of "distribution in commerce" which indicates that "distribution" is not limited to sales, it is the Commission's intention that the scope of this proposed ban will extend not only to the sale of those refuse bins declared to be banned hazardous products but also to those banned bins which are the subject of a rental or lease transaction.

2. *Size of banned bins.* From six in-depth investigations for which dimensional data exists, the Commission found that the smallest bin involved in an incident causing injury or death was 1.3 cubic yards in volume. To allow for a reasonable margin of safety, it is the view of the Commission that a refuse bin with a volume of less than one cubic yard does not appear to pose an unreasonable risk of injury from tipover. Therefore, the proposed ban applies to refuse bins having an internal volume greater than one cubic yard.

3. *Proposed banning criteria.* The proposed criteria used for determining those refuse bins which are banned are based upon the actual hazard pattern prevalent in most of the cases known to the Commission. The proposal provides that bins are banned if they tip over when subjected to: (1) a vertically downward force of 191 pounds applied at a point most likely to cause tipping, or (2) a horizontal force of 70 pounds applied at a point and in a direction most likely to cause tipping. These criteria are suggested by a draft proposed standard developed by the American National Standards Institute (Z245.3-1976).

The vertical downward force of 191 pounds is based, in part, upon the weight of two 99th percentile eight year old females. Tests on representative bins disclosed that tip-over will occur with as little as 55 lbs. vertical force exerted on the lip. Therefore, requiring a bin to withstand 191 pounds of vertical downward force will provide the necessary margin of safety.

Tests conducted by the Commission on bins similar to those which are the subject of this ban disclosed that tip-over will occur with as little as 44 pounds horizontal force exerted on the lip of the bin. Other tests indicate that two eight year olds can pull horizontally with as much as 65 pounds. Therefore, in order to insure a margin of safety the horizontal force specified in the proposed ban is increased and set at 70 pounds.

EFFECTIVE DATE

The Commission suggests in the proposal that the effective date be delayed for nine months after the ban is promulgated as a final regulation. The Commission believes that unstable bins may be made stable and therefore does not recommend that these bins merely be discarded. Therefore, those persons and groups affected by this ban are encouraged to use this period for retrofitting the bins so as to make them stable and thereby no longer subject to the proposed ban. Although the Commission believes that the necessary retrofit is a relatively simple task, the nine-month period is reasonable to allow those in this rather fragmented industry who are affected by the ban, to carry out the retrofit.

ENVIRONMENTAL CONSIDERATIONS

Based upon an informal assessment of information presently available, the Commission anticipates no significant effects on the natural environment from the proposed ban. However, the Commission is soliciting information and comments on the subject for its consideration prior to making a final decision on the need for an environmental impact statement. The Commission anticipates it will make this decision by the end of January 1977 and urges all interested persons to provide views and data on this issue.

CONCLUSION AND PROPOSAL

Under sections 7 and 9 of the CPSA (15 U.S.C. 2056, 2058), the Commission has the authority to set standards and under sections 8 and 9 (15 U.S.C. 2057, 2058) it has the authority to issue rules declaring that hazardous consumer products are banned. Where the Commission determines that a consumer product is being, or will be, distributed in commerce and that it presents an unreasonable risk of injury against which no feasible consumer product safety standard under the CPSA can adequately protect the public, it may propose a rule declaring the product to be a banned hazardous product.

Based on the injury data, engineering analysis, and the apparently low incidence of modification of unstable refuse bins alluded to in the "Background" section, the Commission preliminarily determines that certain refuse bins having an internal volume greater than one cubic yard and which will tip over when subjected to a vertical downward force of 191 pounds or a horizontal force of 70 pounds applied at a point and in the direction most likely to cause tipping, present an unreasonable risk of injury. In addition, the Commission preliminarily determines that no feasible consumer product safety standard under the CPSA would adequately protect the public from the unreasonable risk of injury associated with these refuse bins because a consumer product safety standard addressing this unreasonable risk of injury would be applicable only to those bins manufactured after the effective date of the standard. In contrast, a consumer product safety rule declaring that certain refuse bins are banned hazardous products can apply to those already in commerce on the effective date of the ban.

The Commission therefore proposes to declare that certain unstable refuse bins that fail to satisfy the criteria set out below, are banned hazardous products.

Accordingly, pursuant to provisions of the CPSA (secs. 8 and 9), 86 Stat. 1215–17, as amended, 90 Stat. 506; 15 U.S.C. 2057, 2058), the Commission proposes that Title 16, Chapter II, be amended by adding to Subchapter B the following new Part 1301:

PART 1301—BANNED HAZARDOUS REFUSE BINS

Sec.

1301.1 Scope and application.
1301.2 Purpose.
1301.3 Definitions.
1301.4 Banning criteria.
1301.5 Test conditions.
1301.6 Test procedures.
1301.7 Effective date.

AUTHORITY: Secs. 8, 9, 86 Stat. 1215–1217, as amended, 90 Stat. 506; 15 U.S.C. 2057, 2058.

§ 1301.1 Scope and application.

In this Part 1301 the Consumer Product Safety Commission (Commission) declares certain refuse bins banned hazardous products under sections 8 and 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2057 and 2058). This ban applies to those refuse bins which are being distributed in commerce after the effective date which do not meet the criteria of § 1301.4 and which are produced or distributed for sale to, or for the personal use, consumption or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation, or otherwise. The Commission has found that (a) these refuse bins are being, or will be distributed in commerce; (b) they present an unreasonable risk of injury; and (c) no feasible consumer product safety standard under the CPSA would adequately protect the public from the unreasonable risk of injury associated with these products. The ban is applicable to those refuse bins having an internal volume greater than one cubic yard which will tip over when subjected to the forces described in § 1301.6 and which are in commerce or being distributed in commerce after the effective date of the ban. Such refuse bins when they are the subject of rental or lease transactions involving owners of refuse bins or refuse collection agencies and persons who make such refuse bins available for use by the public, are considered to be distributed in commerce and therefore come within the scope of this ban.

§ 1301.2 Purpose.

The purpose of this rule is to ban certain refuse bins which have been found to present an unreasonable risk of injury due to tip-over resulting in serious injury or death from crushing.

§ 1301.3 Definitions.

(a) The definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) apply to this Part 1301:

(b) "Refuse bin" means a metal receptacle having an internal volume greater than one cubic yard which temporarily receives and holds refuse for ultimate disposal either by unloading into the body or loading hopper of a refuse collection vehicle or by other means.

§ 1301.4 Banning criteria.

Any refuse bin produced or distributed, for sale to, or for the personal use, consumption or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation, or otherwise which is in commerce or being distributed in commerce after the effective date of this ban and which has an internal volume greater than one cubic yard and tips over when subjected to the test procedures described below is a banned hazardous product.

§ 1301.5 Test conditions.

(a) The refuse bin shall be empty and have its lids or covers in a position which would most adversely affect the stability of the bin when tested.

(b) The refuse bin shall be tested on a hard, flat surface. During testing, the bin shall not be tilted from level in such a way as to increase its stability.

(c) Those refuse bins equipped with casters or wheels shall have the casters or wheels positioned in a position which would most adversely affect the stability of the bin and shall be chocked to prevent movement.

(d) The stability of the refuse bin shall be tested without dependence upon non-permanent attachments or restraints such as chains or guys.

(e) For purposes of enforcement, bins will be tested by the Commission in that position which would most adversely affects its stability.

§ 1301.6 Test procedure.

(a) The refuse bin shall be subjected to the following separate actions:

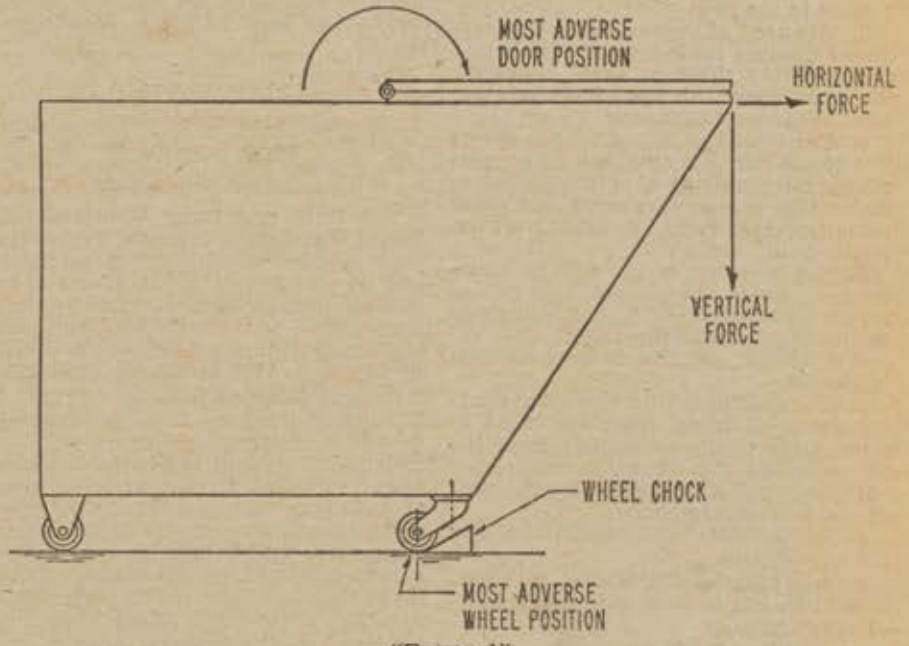
(1) A horizontal force of 70 pounds shall be applied at a point and in a direction most likely to cause tipping, and

(2) A vertically downward force of 191 pounds shall be applied to a point most likely to cause tipping. (See Figure 1.)

(b) These forces shall be applied separately.

§ 1301.7 Effective date.

The effective date of this ban shall be nine months after publication of this Part 1301 in the FEDERAL REGISTER.



"FIGURE 1"

Regarding proposed Part 1301, interested persons are invited to submit written comments before the close of business February 7, 1977. Comments may be accompanied by written data, views, and arguments and should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW., 3rd floor, Washington, D.C. 20207. Received

comments and other related material may be seen in the Office of the Secretary, during working hours Monday through Friday.

Oral presentations. Interested persons will be afforded an opportunity to make an oral presentation of data, views, or arguments in addition to the opportunity to make written comments, on any aspect of the proposed standard on January 31, 1977. The proceedings for the oral presentation will be held at 10:00 a.m. at the Commission's hearing room at 1111 18th Street, NW., Washington, D.C. The procedural regulations for oral presentation, 16 CFR Part 1109, promulgated October 14, 1975, (40 FR 49122), shall govern this proceeding.

All persons wishing to make an oral presentation should notify Richard Danca of the Office of the Secretary, (202) 634–7700, no later than close of business January 17, 1977 for scheduling purposes. A summary or outline of each oral presentation and an estimate of the length of time it will require should be filed with the Office of the Secretary at least two business days prior to the oral presentation.

Section 9(c) of the CPSA (15 U.S.C. 2058(c)) requires the Commission, prior to promulgating a consumer product safety rule, to consider and make certain findings for inclusion in that rule. In order to aid the Commission in this endeavor, the Commission is particularly interested in soliciting, either by written comment or through the oral presentation, additional data, views and arguments as to the following:

1. The degree and nature of the risk of injury the rule is designed to eliminate or reduce;

2. The approximate number of consumer products, or types or classes thereof, subject to the rule;

3. The need of the public for the consumer product subject to such rule and the probable effect of such rule upon the utility, cost, or availability of such products to meet that need;

4. Any means of achieving the objective of the rule while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety;

5. The necessity of the rule to eliminate or reduce the unreasonable risk of injury associated with the consumer products subject to the rule;

6. Whether the rule is in the public interest;

7. The feasibility of a consumer product safety standard under the CPSA to protect the public adequately from the unreasonable risk of injury associated with those refuse bins which are the subject of this proposed ban;

8. The potential environmental effects of the rule; and

9. Any adverse effects that this proposed ban will have on elderly and handicapped persons.

In addition, the Commission is seeking public comment on the types and costs of possible retrofits and on any anticipated economic impact that this proposed ban will have on industry and the consumer.

In making its final decision on the rule proposed herein, the record shall consist of all information available to the Commission, whether obtained during the course of this proceeding or outside of this proceeding.

Dated: January 4, 1977.

SHELDON D. BUTTS,
Acting Secretary,
Consumer Product Safety Commission.

[FR Doc.77-730 Filed 1-6-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 3e]

[Docket No. 76N-0400]

NONCLINICAL LABORATORY STUDIES

Proposed Regulations for Good Laboratory Practice Regulations

Correction

In FR Doc. 76-34014 appearing at page 51206 in the issue of Friday, November 19, 1976, the following corrections should be made:

1. On page 51206, first column, 13th line down, the figure "387" should read "381".

2. On page 51209, second column, the 16th line from the bottom should read "termine physical or chemical characteristics of a test".

3. On page 51214, third column, 4th full paragraph beginning "Proposed § 3e.130(e)", seventh line, second word "are" should read "with".

4. On page 51228, third column, next to last line in § 3e.219, should read, "facility. A determination that the testing facility has been reinstated is disclosable".

[21 CFR Part 121]

[Docket No. 76N-0510]

FOOD ADDITIVES

Saccharin and Its Salts

The Food and Drug Administration (FDA) is proposing to amend the interim food additive regulation for saccharin and its salts to establish a tolerance for toluenesulfonamide of 25 parts per million (ppm), the lowest level currently achievable. Interested persons have until March 8, 1977 to submit comments.

Ortho-toluenesulfonamide (OTS) is the major impurity that is commonly found in commercial saccharin. The amount of OTS in saccharin has been found to range from practically none to 6,100 ppm. The amount of OTS present in saccharin appears to depend on the process used to manufacture it. Saccharin produced by the Remsen-Fahlberg process contains the highest amount of OTS (up to 6,100 ppm), while that produced by the Maumee process contains the lowest amount (up to 25 ppm).

Data from animal feeding studies have suggested that adverse effects may be caused by saccharin, its impurities, including OTS, or by interaction between saccharin and its impurities. Studies are underway in Canada which are expected to resolve the questions about these adverse effects and to pinpoint the responsible compound. These studies are more fully described in the notice extending the effective date of the interim food additive regulation for saccharin and its salts in § 121.4001(c) published elsewhere in this issue of the FEDERAL REGISTER.

OTS is a carbonic anhydrase inhibitor. Inhibition of this enzyme results in an alkaline urine that contains increased amounts of bicarbonate. It has been suggested that this condition favors stone formation in the bladder and kidneys. Some sulfonamides have been shown to produce bladder stones and ultimately tumors, and it has been inferred from certain studies that a cause-effect relationship could exist between the formation of stones and bladder tumors. Bladder stones could be responsible for tumors because prolonged irritation of the bladder or kidneys by the stones may cause hyperplasia and consequently tumors.

The interim food additive regulation under § 121.4001(b) for saccharin currently requires that saccharin and its salts "meet the specifications of the 'Food Chemicals Codex.'" In June 1974, the National Academy of Sciences/National Research Council (NAS/NRC), the body responsible for preparing the Food Chemicals Codex, issued the First Supplement to the Second Edition of the Food Chemicals Codex. In the Supplement, the NAS/NRC adopts a specification (tolerance) of not more than 100 ppm (0.01 percent) for total toluenesulfonamides in saccharin.

Data and information have recently come to the attention of FDA that indicate that technological advances now make it feasible, both for domestic and foreign manufacturers of saccharin, to reduce substantially the amount of impurities, including OTS, present in food grade saccharin. The data available to FDA indicate that the tolerance for toluenesulfonamide in saccharin can be lowered feasibly at this time to 25 ppm (0.0025 percent). This proposal would accordingly amend the interim food additive regulation for saccharin to limit the amount of toluenesulfonamide permitted in saccharin to 25 ppm.

Although data and information currently available to FDA indicate that 25 ppm for toluenesulfonamide is a reasonable and attainable tolerance, the Commissioner acknowledges that those data are incomplete. Accordingly, the Commissioner encourages all persons with additional data and information about the levels of toluenesulfonamide in saccharin to submit comments on this proposal. The Commissioner particularly solicits information concerning the following subjects:

1. Complete descriptions of the manufacturing processes used to manufacture saccharin and its salts.

2. Data on the amounts of total toluenesulfonamide typically found in saccharin and

its salts produced by the various manufacturing processes. The data should also include the maximum amounts of orthotoluenesulfonamide and para-toluenesulfonamide present in saccharin and its salts.

3. Description of the analytical methods used to determine the data requested in paragraph 2 above.

4. Descriptions of the procedures used to determine the accuracy and reliability of the analytical methods employed.

Information concerning the available analytical methods for determining the amount of total toluenesulfonamide, OTS, and para-toluenesulfonamide present in saccharin is required because the Commissioner is unaware of such a method that accurately and reliably detects the toluenesulfonamide impurities as low as 25 ppm. The Food and Drug Administration has been advised that efforts are underway to validate an analytical method that will accurately and reliably measure toluenesulfonamide at levels below 25 ppm. These efforts involve modification of the methodology currently set forth in the Food Chemicals Codex, 2d Ed., First and Second Supplements. The Commissioner hopes that these efforts will be completed before the comment period closes on this proposal.

An accurate and reliable analytical method for measuring toluenesulfonamide at levels below 25 ppm is required by FDA to assure compliance with the 25 ppm tolerance. The Commissioner advises that it may be necessary to modify the proposed tolerance of 25 ppm for toluenesulfonamide if efforts to validate an analytical method for measuring toluenesulfonamide below 25 ppm are not successful. The final regulation will specify not only the tolerance for toluenesulfonamide, but a validated analytical method for measuring the amount present.

The Commissioner has carefully considered the environmental effects of the proposed regulation and because the proposal will not significantly affect the quality of the human environment, he has concluded that an environmental impact statement is not required. Copies of the FDA environmental impact assessments are on file with the Hearing Clerk, Food and Drug Administration.

(Sec. 409(d), 72 Stat. 1787 (21 U.S.C. 348(d)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262).)

It is proposed that § 121.4001 be amended by revising paragraph (b) to read as follows:

§ 121.4001 Saccharin, ammonium saccharin, calcium saccharin, and sodium saccharin.

* * * * *

(b) The food additives meet the specifications of the Food Chemicals Codex, 2d Ed. (First and Second Supplements) [1] except that toluenesulfonamides may not be present at more than 25 parts per million (0.0025 percent).

Interested persons may, on or before March 8, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, 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 between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: December 29, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-423 Filed 1-6-77;8:45 am]

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, DC 20037.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 201]

[Docket No. R-77-429]

MOBILE HOME LOANS

Prepayment of Loans

The Department of Housing and Urban Development is considering amending Part 201 of Title 24 of the Code of Federal Regulations, Subpart B, "Mobile Home Loans". The proposed amendments would state the method of calculation that must be used by insured lenders when a loan is prepaid or matured, and allow an acquisition or minimum retained charge not to exceed fifty dollars when a loan is prepaid when such charge is permitted by state law.

The purpose of the proposed amendment is to make the Department's mobile home financing program uniform with its mortgage insurance programs insofar as calculation of earned interest is concerned, and to provide a more equitable method of calculating such interest. The amendment will preclude use of the "sum of the digits" method (also known as the "78th's" method) which some lenders use to determine interest earned at any point in the life of a loan, which method favors the lender.

Interested persons are invited to participate in this proposed rulemaking by submitting written data, views, and arguments with respect to this proposal. Communications should be identified by the above docket number and title, and should be filed with the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410.

All relevant materials received on or before February 8, 1977, will be considered before adoption of a final rule. Copies of comments submitted will be available for public inspection during normal business hours at the above address.

A Finding of Inapplicability pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, has been made with regard to these proposed regulations in accordance with HUD Handbook 1390.1. A copy of the Finding of Inapplicability is available for public inspection at the above address.

The proposed amendments are as follows:

1. In § 201.501 a new paragraph (n) is proposed to read as follows:

§ 201.501 Definitions.

* * * * *

(n) "Actuarial method" means the method of allocating payments made on an obligation between the amount financed and the amount of the finance charge, pursuant to which a payment is applied first to the accumulated finance charge and the balance is applied to the unpaid amount financed.

2. Section 201.540(b) is proposed to be amended to read as follows:

§ 201.540 Financing charges.

* * * * *

(b) *Prepayment rebate.* If an obligation is paid in full, or otherwise matured, prior to its scheduled maturity, the insured shall rebate the full unearned charge, if any, where such rebate is one dollar or more. The earned charge shall be calculated by the actuarial method. When an obligation is prepaid in full, where the law of the jurisdiction permits an acquisition or minimum retained charge, such charge, not to exceed fifty dollars, may be collected from the borrower.

3. Section 201.585 is amended by adding the following material after the first sentence, to read as follows:

§ 201.585 Refinancing.

* * * The full amount of any unearned finance charge on the original obligation shall be rebated to the borrower. The earned charge shall be calculated by the actuarial method. The borrower may be assessed a handling charge of not more than $25 in connection with the refinancing.

4. Section 201.680(a) is amended to read as follows:

§ 201.680 Amount of claim.

* * * (a) Deduct from the unpaid amount of the obligation (net unpaid principal and the earned portion of the finance charge calculated according to the actuarial method), * * *

* * * * *

(Sec. 7(d) 79 Stat. 670 (42 U.S.C. 3535(d)); sec. 2, 48 Stat. 1246, 12 U.S.C. 1703, as amended by P.L. 93-383)

Issued at Washington, D.C., December 30, 1976.

It is hereby certified that the economic and inflationary impacts of this proposed

regulation have been carefully evaluated in accordance with OMB Circular A-107.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc.77-590 Filed 1-6-77;8:45 am]

Office of Assistant Secretary for Community Planning and Development

[24 CFR Part 501]

[Docket No. R-71-151]

MANDATORY USE OF URBAN RENEWAL LAND DISPOSITION FORMS

Withdrawal of Notice of Proposed Rulemaking

The purpose of this notice is the withdrawal of proposed rulemaking. By notice published under the above Rules Docket Number at 36 FR 23576 December 10, 1971, it was proposed to amend Chapter V of Title 4 of the Code of Federal Regulations to add a new Part 501 entitled "Mandatory Use of HUD Standards Contract Forms for Urban Renewal Project Land Disposition". Having given consideration to the public comments and in view of the lapse of time since the initial proposal, the need to reduce paperwork, and the decentralization of decision making to the local level it has been determined that HUD will not finalize the proposed rule.

In consideration of the foregoing, the proposal published in the FEDERAL REGISTER (36 FR 23576) on December 10, 1971, is hereby withdrawn.

Issued at Washington, D.C., December 30, 1976.

WARREN H. BUTLER,
Acting Assistant Secretary for Community Planning and Development.

[FR Doc.77-589 Filed 1-6-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[26 CFR Part 54; 29 CFR Part 2550]

EXEMPTIONS FOR PROVISION OF SERVICES AND OFFICE SPACE TO EMPLOYEE BENEFIT PLANS, INVESTMENT OF PLAN ASSETS IN BANK DEPOSITS, AND PROVISION OF BANK ANCILLARY SERVICES TO PLANS, AND TRANSITIONAL RULE FOR PROVISION OF SERVICES TO PLANS; AND PROPOSED CLASS EXEMPTION REQUESTED BY THE NATIONAL ASSOCIATION OF PENSION CONSULTANTS AND ADMINISTRATORS, INC., THE INVESTMENT COMPANY INSTITUTE, AND OTHERS

Hearing on Notices of Proposed Rulemaking and Proposed Class Exemption

Proposed regulations under sections 4975(d) (2), (4), (6), and (10) of the Internal Revenue Code of 1954 (the Code) and section 2003(c) (2) (D) of the Employee Retirement Income Security Act of 1974 (the Act), and sections 408 (b) (2), 408(b) (4), 408(b) (6), 408(c) (2) and 414(c) (4) of the Act, appeared in the FEDERAL REGISTER for July 30, 1976 (41 FR 31838, 31874). These proposed regulations relate to the provision of services and office space to employee benefit plans, the investment of plan assets in bank deposits, the provision of bank ancillary services to plans, and the transitional rule for the provision of services to plans until June 30, 1977.

By notice appearing in this issue of the FEDERAL REGISTER, the Department of Labor and the Internal Revenue Service (hereinafter collectively referred to as "the Agencies") have also announced the pendency of a proposed class exemption involving, among other things, the receipt of insurance and mutual fund sales commission by pension consultants, insurance agents and brokers and mutual fund principal underwriters and their affiliates who are fiduciaries of service providers with respect to employee benefit plans.

A public hearing on the provisions of the proposed regulations and the proposed class exemption will be held on February 14, 1977, beginning at 10:00 a.m. in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Service Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

In addition, the comment period with respect to the proposed regulations described above, which terminated on September 23, 1976, is hereby extended to January 27, 1977.

Proposed regulation 26 CFR 54.4975-6 (b) (1), relating to the statutory exemption for the provision of office space or services to plans set forth in section 4975(d) (2) of the Code, states that:

> It (the exemption in section 4975(d) (2)) does not provide an exemption from section 4975(c) (1) (E) (relating to fiduciaries dealing with the income or assets of plans in their own interest or for their own account) or from section 4975(c) (1) (F) (relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in conection with a transaction involving the income or assets of the plan).
>
> Thus, a person who is a fiduciary with respect to a plan may not provide additional services to the plan and receive any compensation or other consideration in connection therewith, unless such provision of services is arranged and approved on behalf of the plan by a fiduciary who is independent of and unrelated to the fiduciary providing such services, who is not a party to such arrangement for the provision of services, who does not receive any compensation or other consideration with respect to such provision of services, an dwho has no other interest with respect to the transaction that might affect the exercise of such fiduciary's best judgment as a fiduciary.

Proposed regulation 29 CFR 2550.408b-2(b) (1) contains a similar statement with respect to section 408(b) (2) of the Act (i.e., that it does not provide an exemption from the prohibitions of sections 406(b) (1), (2) and (3) of the Act).

The many comments received on these proposed regulations suggest the need for further explanation. The following points are offered.

First, a person is a "fiduciary" if that person exercises any authority or control regarding management or disposition of plan assets, or has or exercises discretionary authority, control or responsibility for plan administration or management, as described in sections 3(21) (A) (i) and (iii) of the Act and 4975(e) (3) (A) and (C) of the Code, or if that person renders investment advice to the plan for a fee or other compensation, direct or indirect, as defined in sections 3(21) (A) (ii) of the Act and 4975(e) (3) (B) of the Code, and the regulations thereunder (29 CFR 2510.3-21 and 26 CFR 54.4975-9.) In this connection, as noted in the Conference Report accompanying the Act (H.R. Rep. 93-1280, 93d Cong. 2d Sess. (1974) 323), there will be situations in which a person who renders advisory or consulting services to a plan will be a fiduciary, although not formally named as such, because, by virtue of his or her actions, he or she exercises discretionary authority or control with respect to the management or administration of such plan or has authortiy or control regarding the assets of the plan.

Second, if a person has or exercises authority, control, or responsibility over plan management or administration or over the disposition of plan assets sufficient to make such person a fiduciary respecting such plan, sections 406(b) (1) of the Act and 4975(c) (1) (E) of the Code prohibit that person from exercising such authority, control, or responsibility respecting such plan so as to deal with the income or assets of the plan in his or her own interest or for his or her own account.

Third, the rule in the proposed regulations cited above was not intended to mean that a fiduciary can exercise the authority, control or responsibility that makes such person a fiduciary to benefit himself or herself, even if a second fiduciary, who is independent and has no personal interest in the matter, approves the first fiduciary's undertakings. The first fiduciary is still subject to the prohibition contained in sections 406(b) of the Act and 4975(c) (1) (E) and (F) of the Code against the exercise of such fiduciary's powers to deal with plan income or assets for his or her own benefit or the benefit of others, notwithstanding the actions of a second fiduciary.

Fourth, sections 406(b) (1) of the Act and 4975(c) (1) (E) of the Code do not prohibit a person from providing additional services to a plan merely because that person is a fiduciary. A fiduciary may not use the authority, control or responsibility that makes such person a fiduciary to, for example, authorize the retention of himself or herself to provide such additional services. However, if such fiduciary does not have or exercise any such authority, control or responsibility in connection with the retention of himself or herself to provide such additional services, the retention of such fiduciary to provide such additional services to the plan by a second fiduciary

does not constitute a violation by the first fiduciary of the prohibition against fiduciary self-dealing contained in sections 406(b)(1) of the Act and 4975(c)(1)(E) of the Code.

Examples of the above points in operation are as follows:

Example 1. On January 1, 1978, F, a fiduciary of plan P with overall authority over the administration of P, acting on behalf of P, successfully negotiates with I, a professional investment manager in which F has no interest which might adversely affect the exercise of F's judgment as a fiduciary, a contract under which I will render investment advice to P of a type which causes I to be a fiduciary of P under sections 3(21)(A)(ii) of the Act and 4975(e)(3)(B) of the Code. Thereafter F, acting on behalf of P, negotiates a second contract with I under which I will perform bookkeeping services for P for a fee. The making of such a contract does not constitute a prohibited transaction within the meaning of sections 406(b)(1) of the Act and 4975(c)(1)(E) of the Code because I did not use any of the authority, control or responsibility which makes I a fiduciary to cause the plan to retain I to perform the bookkeeping services.

Example 2. On January 1, 1976, F, a fiduciary of plan P, which covers F's employees, commences providing bookkeeping services at no charge to P. The provision of such services does not constitute a prohibited transaction within the meaning of sections 406(b)(1) of the Act and 4975(c)(1)(E) of the Code because F has received no compensation or other consideration with respect to the provision of such services.

Example 3. C, a consultant to plan P, is, under the particular facts and circumstances, a fiduciary with respect to P. On January 1, 1978, C recommends to D, a named trustee of the plan with discretion over the management and disposition of plan assets, that the plan purchase an insurance policy from insurance company U, which is not a party in interest or disqualified person with respect to P. C thoroughly explains the reasons for the recommendation, and makes a full disclosure concerning the fact that C will receive a commission from the sale of such policy from U. D considers the recommendation and approves the purchase of the policy by the plan. C receives a commission. Under such circumstances, C has engaged in a prohibited transaction under sections 406(b)(1) of the Act and 4975(c)(1)(E) of the Code. However, if the pending class exemption which appears elsewhere in this issue of the FEDERAL REGISTER is granted, the transaction would be exempt from the prohibited transaction provisions of section 406 of the Act and section 4975 of the Code if the transaction satisfies the conditions set forth in the exemption.

Example 4. Assume the same facts as in Example 3 except that the nature of C's relationship with the plan is not such that C is a fiduciary of P. The purchase of the insurance policy would not be a prohibited transaction under sections 406(b)(1) of the Act and 4975(c)(1)(E) of the Code.

Any interested person who desires to present oral comments at the hearing and who wishes to be assured of being heard should submit a statement to that effect, an outline of the topics he wishes to discuss, and the time he wishes to devote, by 3:30 p.m. on February 10, 1977. The statement and outline should be submitted to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room C-4526, Washington, D.C. 20216, attention, application D-183 Hearing. An agenda will then be prepared containing the order of presentation of oral comments and the time allotted to such presentation. Ordinarily, a period of 10 minutes will be the time allotted to each person for making his oral comments. Information with respect to the contents of the agenda may be obtained on February 11, 1977, by telephoning (Washington, D.C.) 202-523-8881.

At the conclusion of the presentations of comments by persons listed in the agenda, to the extent time permits, other comments will be received. The public hearing will be transcribed.

A person wishing to make oral comments at the hearing may do so without filing written comments. Persons making oral comments should be prepared to answer questions regarding information brought forth on their comments (including written comments, if any).

Signed at Washington, D.C., this 22d day of December, 1976.

WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs, U.S. Department of Labor.

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

[FR Doc.76-38232 Filed 12-28-76;8:45 am]

(NOTE: This document is being reprinted entirely without change from the issue of Wednesday, December 29, 1976.)

[26 CFR Part 301]

CLASSIFICATION OF ORGANIZATIONS FOR PURPOSES OF FEDERAL TAXATION

Withdrawal of Notice of Proposed Rulemaking

In order to permit consideration of certain aspects of the notice of proposed rulemaking in the FEDERAL REGISTER for January 5, 1977 (42 FR 1038), said notice is hereby withdrawn.

WILLIAM E. SIMON,
Secretary of the Treasury.

[FR Doc.77-843 Filed 1-6-77;11:15 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

[30 CFR Part 211]

COAL MINING OPERATING REGULATIONS

Adoption of Cooperative Agreement With Utah for the Enforcement and Administration of Surface Coal Mine Reclamation Standards

On May 17, 1976, the Department of the Interior adopted new regulations to govern the management of federally-owned coal resources. 41 F.R. 20252 (1976). These regulations authorize the Department of the Interior to enter into Cooperative Agreements with States in which federal coal leases have been or will be issued for the purpose of avoiding duality in the administration and enforcement of surface coal mining reclamation operations. 30 CFR 211.75.

The Secretary and the Governor of Utah have completed the negotiation of a Cooperative Agreement under this authority. The Agreement provides that the State of Utah will be the principal entity, wherever possible, responsible for the administration and enforcement of surface coal mine reclamation operations on Federal coal leases in Utah.

The Department of the Interior's surface mining regulations require a federal coal lessee to conduct mining operations in a manner which ensures the effective reclamation of mined lands.

An operator must, in particular, meet all the performance standards in 30 CFR 211.40 (1976). The Department's regulations require this degree of protection to be maintained, and the Department cannot enter into a Cooperatve Agreement which compromises the degree of environmental protection established under Federal laws and regulations. The proposed Cooperative Agreement maintains this degree of environmental protection.

The State of Utah's reclamation regulation's do not contain mandatory requirements that afford general protection of environmental quality and values at least as stringent as would occur under the exclusive application of federal law. However, the State of Utah has the authority to administer its reclamation laws and regulations in a manner that provides the same degree of environmental protection as required by Federal law. The proposed Cooperative Agreement commits the State of Utah to this degree of environmental protection on Federal coal leases and requires the State of Utah to ensure that "all mining plans approved under this Agreement shall afford general protection of the envirnoment at least as stringent as would occur under the exclusive application of 30 CFR Part 211." The proposed Agreement also requires that the procedures of the State are as effective as the procedures of the Department of the Interior to enforce the requirements of the mining plan. If the State of Utah is unable to meet these assurances, the Department has the duty, under the proposed Agreement, to notify Utah that it intends to cancel the Agreement. The Department of the Interior will require reports from the State of Utah and will conduct inspections to determine whether the State of Utah is complying with the assurances of the Agreement.

In the regulations promulgated on May 17, 1976, the Department also established a procedure by which the Department could adopt the principal substantive, on-the-ground standards of a state's reclamation law as the federal standards for operations on federal coal leases in the State, as long as the states' requirements afforded "general protection of environmental quality and values at least as stringent as would occur under exclusive application of the federal

standards." 30 CFR 211.75(a). In an advance notice of proposed rulemaking, the Department explained what steps it would take to determine whether it would adopt the requirements of a State's reclamation law. 41 FR 27993 (1976). This rulemaking takes no action under this section, and does not affect the requirements of 30 CFR 211.40, or the standards the Department of the Interior will use to approve a mining plan.

The Department regards four elements as central to a Cooperative Agreement for the administration and enforcement of surface coal mine reclamation standards: Mine plans; inspections; enforcement provisions; and bonding requirements. The Department believes that the State of Utah is capable of administering and enforcing reclamation operations on federal coal lease in Utah in such a way that federal interests are protected.

Although the proposed Agreement grants the State the principal authority for administering and enforcing reclamation operations, we note the following. First, the First Coal Leasing Amendments Act of 1975, Pub. L. 94-377, requires the Secretary to approve the mining plan of a federal lessee. Article IV, section C of the Cooperative Agreement states the Secretary's duty to review and approve mining plans independently from state review and approval. The Agreement does avoid the application of conflicting standards by allowing the submission of one mining plan to the State and the Department.

Second, the Department retains its authority to establish the amount of the performance bond to be imposed. Article VII, section A avoids the imposition of double bonds by providing that the Department's bond requirement, if higher than the State's, will only be for the amount of the difference between the two amounts.

Variance procedures are treated in Article IV of this Agreement, which requires the Department to use, in Utah, its existing variance procedures.

The proposal contains the text of the Cooperative Agreement but it also contains proposed technical changes in 30 CFR 211.10 and 211.74(a) to conform those rules to the adoption of the Cooperative Agreement.

This proposed rulemaking does not explicitly amend 43 CFR Subpart 3041, but the Department wishes to state that the enforcement and administration provisions of that Subpart will be administered consistently with the changes in 30 CFR Part 211 proposed here.

The environmental impacts of this proposed action are discussed in the final Environmental Impact Statement, Surface Management of Coal Resources (43 CFR Subpart 3041) and Coal Mining Operation Regulations (30 CFR Part 211) (1976). NEPA does not require and the Department has not prepared a separate impact statement for this action.

The Department believes that this Cooperative Agreement can promote both coal production and proper surface coal mine reclamation by eliminating duplication in the administration and enforcement of reclamation laws.

The Department will accept and consider written comments on the proposed rulemaking until February 10, 1977. Comments should be directed to Deputy Under Secretary Lyons, Chairman, Task Force on the Determination of State Role in Federal Surface Coal Mine Programs, Department of the Interior, Washington, D.C. 20240.

Dated: January 4, 1977.

THOMAS S. KLEPPE,
Secretary of the Interior.

1. Accordingly, it is proposed that 30 CFR 211.10 be amended by the addition of a paragraph (e)(2) to read as follows:

§ 211.10 Exploration and mining plans.

* * * * *

(e) *States with § 211.75(b) agreements.* * * * (2) Utah. A Federal coal lessee in the State of Utah who must submit a mining plan or permit under both State and Federal law shall submit in lieu of the mining plan required in this section, a mining plan containing the information required by:

(i) Utah Code Ann., 1953, as amended, § 40-8-13.

(ii) Rule M-3, of Utah Division of Oil, Gas and Mining Rules and Regulations.

(iii) 30 CFR 211.10(c); and

(iv) A statement certifying that a copy of the plan or permit application has been given to both the Governor and the Secretary.

2. It is proposed that 30 CFR 211.74 be amended by the addition of a paragraph (g)(2) to read as follows:

§ 211.74 Variances.

* * * * * *

(g) *States with § 211.75(b) agreements.* * * *

(2) *Utah.* A Federal coal lessee in the State of Utah shall request and receive variances from the State of Utah and the Secretary under the provisions of 30 CFR 211.74.

3. It is proposed that the Department enter into and approve a Cooperative Agreement to designate the State of Utah as the principal party to administer surface coal mine reclamation operations on Federal leases in Utah.

Cooperative Agreement Between the United States Department of the Interior and the State of Utah under Section 32 of the Mineral Leasing Act of 1920, 30 U.S.C. 189, section 307 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Section 1737 and 30 CFR 211.75(b).

This Agreement (referred to as the Cooperative Agreement) is made between the State of Utah, acting by and through its Governor (hereinafter referred to as the "State") and the United States Department of the Interior, acting by and through the Secretary of the Interior or his duly authorized representative (referred to as the "Secretary").

ARTICLE I

PURPOSE

This agreement provides for a cooperative program between the U.S. Department of the Interior and the State of Utah with respect to the administration and enforcement of surface coal reclamation operations conducted under coal leases issued by the Department of the Interior under the Mineral Leasing Act of 1920. The basic purpose of the agreement is to prevent duality of administration and enforcement of surface reclamation requirements by designating the State of Utah, wherever possible, as the principal entity to enforce reclamation laws and regulations in Utah.

ARTICLE II

EFFECTIVE DATE

The Cooperative Agreement is effective on the _____ day of the _____, 19____, and remains in effect until terminated as provided in Article IX.

ARTICLE III

REQUIREMENTS FOR COOPERATIVE AGREEMENT

The State of Utah affirms that it will comply with all of the provisions of this Cooperative Agreement and will continue to meet all the conditions and requirements specified in this Article upon which the approval of the Secretary is based.

A. *Responsible Administrative Agency.* The Utah Division of Oil, Gas and Mining of the Department of Natural Resources (hereinafter referred to as "State Agency") is, and shall continue to be, the sole agency responsible for administering this Cooperative Agreement on behalf of the State throughout the State of Utah.

B. *Authority of State Agency.* The State agency designated in Paragraph A of this Article has, and shall continue to have authority to carry out this Cooperative Agreement, on behalf of the State throughout the State of Utah.

C. *State Reclamation Law.* The State shall ensure that all mining plans approved under this agreement shall afford general protection of the environment at least as stringent as would occur under the exclusive application of 30 CFR Part 211, and that the standards used to approve a mining plan of a Federal lessee will not unreasonably impair coal mining that is in the overriding national interest.

D. *Effectiveness of State Procedures.* The procedures of the State shall be in the judgment of the Secretary substantially as effective for the purpose of enforcing the reclamation requirements of 30 CFR Part 211 as the procedures of the Department of the Interior.

E. *Inspection of Mines.* The State affirms that the State Agency will inspect all mines located in the State, in accordance with minimum schedules in Article V.

F. *Enforcement.* The State affirms that it will enforce the Agreement in a manner that ensures effective environmental protection.

G. *Qualified Personnel.* The State Agency will have an adequate number of fully qualified personnel necessary for the enforcement of this Cooperative Agreement.

H. *Funds.* The State will devote adequate funds to the administration and enforcement of reclamation requirements in the State.

I. *Reports and records.* The State Agency shall make reports to the Secretary, containing information about its compliance with the terms of this Cooperative Agreement, as the Secretary shall from time to time require. The State Agency shall also make

available to the Secretary, upon request, information developed under this Cooperative Agreement.

The Secretary affirms that the Department of the Interior will comply with all the provisions of this Cooperative Agreement.

ARTICLE IV

MINE PLANS

Federal regulations, 30 CFR 211.10(b), (c), and State laws and regulations require the operator of lands leased, permitted or licensed for coal mining to receive approval of a mining plan or permit prior to conducting operations.

A. *Contents of mining plans and permits.* The State and the Secretary agree to require a federal coal lessee who must submit a mining plan or permit application under both State and federal law to submit a plan or permit with the following information:

1. The information required by: (a) Utah Code Ann., 1953, as amended, § 40–8–13; (b) Rule M–3, of Utah Division of Oil, Gas and Mining Rules and Regulations; (c) 30 CFR 211.10(c).

2. A statement certifying that a copy of the plan or permit has been given to both the State Agency and the Secretary.

If either the State or the Secretary require the operator to submit additional information, the operator shall submit the information to both the Governor and the Secretary. The operator will request variances from the mining plan in accordance with 30 CFR 211.-74, and shall file the request with the State Agency and the Secretary.

B. *Review of Plans.* The State Agency and the Secretary shall each review and analyze the adequacy of the plan or request for a variance from a plan or changes in an approved plan.

C. *Approval of Mining Plans.* The State Agency shall review the adequacy of the mining plan, any request for a variance as provided in 40–8–13–18, Utah Code Ann. 1953, as amended, or a request for a change in a mining plan, and shall notify the Secretary of its action. The Secretary shall then independently review and take final action on the mining plan as required by 30 CFR 211.10(d), a request for a variance as required by 30 CFR 211.74, or a change in an approved mining plan which was acted on by the State Agency. The Secretary shall notify the State Agency of his action, and the State Agency shall reconsider its action if necessary to comply with this Agreement.

ARTICLE V

INSPECTIONS

A. The State Agency shall inspect as authorized by Utah Code Ann., 1953, as amended, 40–8–6–17 as frequently as necessary, but at least quarterly, the operations area of all federal leases, permits and licenses where operations affecting the reclamation of mine lands are conducted or to be conducted, for the purpose of determining whether the operator is complying with all applicable laws, regulations and orders and all requirements of approved exploration or mining plans that affect the reclamation of mined lands.

B. The State Agency shall subsequent to conducting any inspection, file with the Secretary a report on (1) the general conditions of the lands under lease permit or license, (2) the manner in which the operations are being conducted, and (3) whether the operator is complying with applicable requirements. A copy of such report shall be furnished to the operator on request, and shall be made available for public inspection during normal business hours at the offices of the Mining Supervisor.

C. For the purpose of evaluating the manner in which the Cooperative Agreement is being carried out and to ensure that reclamation is being effectively performed, the Secretary may inspect from time to time mines within the State of Utah. Inspections by the Secretary may be made in association with a regular inspection by the State Agency.

D. The Secretary may conduct inspections to determine whether the operator is complying with requirements that are unrelated to reclamation.

ARTICLE VI

ENFORCEMENT

A. If the State Agency determines that the operator is not complying with a requirement that relates to the reclamation of lands disturbed by surface mining, he shall take such steps as required by Utah Code Ann., 1953, as amended, § 40–8–6–16.

B. If, in the judgment of the State Agency, an operator is conducting activities on lands subject to this Agreement which fail to comply with a requirement that relates to reclamation, and those activities threaten immediate and serious damage to the environment, the State shall order the immediate cessation of such activities, as authorized by Utah Ann. Code 1953, as amended, § 40–8–6.

C. The State shall notify the Secretary of all violations of applicable laws regarding reclamation including violations of federal laws and regulations or lease terms and of all actions taken under Utah Ann. Code, 1953, as amended, §§ 40–8–6–16.

D. This Article does not limit the Secretary's authority to seek cancellation of a Federal coal lease under Federal laws and regulations, or prevent the Secretary from taking appropriate steps to correct actions that violate Federal, but not State law.

E. Failure to adequately enforce the reclamation laws and regulations shall be grounds for termination of this Agreement.

ARTICLE VII

BONDS

A. *Amount and Responsibility.* The State Agency shall require all Federal coal lessees subject to the provisions of 30 CFR Part 211 to submit a bond as required by Utah Ann. Code, 1953, as amended, § 40–8–14. The Secretary shall reduce the federal bond required for reclamation purposes under 43 CFR 3041.3, and 30 CFR 211.3 by the amount of the bond required by the State Agency only if the release of all or any portion of the State's bond is conditioned on compliance with the requirements of the approved plan, and the amount released is appropriate to the work completed. Where the surface of the lands is not owned by the United States, the State Agency shall notify the surface owner and solicit and take into account his comments before recommending release of the bond.

B. *Notification.* Prior to releasing the bond required by Utah Code Ann., 1953, as amended, § 40–8–14 for lands the surface of which is owned by the Federal Government, the State Agency shall consult with and seek the advice and consent of the Secretary.

C. *Release of bond.* The State Agency shall hold the operator responsible and liable for successful reclamation as required by Utah Code Ann., 1953, § 40–8–16.

ARTICLE VIII

OPPORTUNITY TO COMPLY WITH COOPERATIVE AGREEMENT

The Secretary may, in his sole discretion, and without instituting or commencing proceedings for withdrawal of approval of the Cooperative Agreement, notify the State Agency that it has failed to comply with the provisions of the Cooperative Agreement. The Secretary shall specify how the State has failed to comply and shall specify and state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him that the State has remedied the defects in administration and is in compliance with and has met the requirements of the Secretary. Upon failure of the State Agency to meet the requirements of the Secretary within the time specified, the Secretary may institute proceedings for withdrawal of approval of the Cooperative Agreement as set forth in Article IX.

ARTICLE IX

TERMINATION OF COOPERATIVE AGREEMENT

This Cooperative Agreement may be terminated as follows:

A. *Termination by the State.* This Cooperative Agreement may be terminated by the State upon written notice to the Secretary, specifying the date upon which the State plan shall be terminated, but which date of termination shall not be less than 60 days from the date of the notice.

B. *Termination by the Secretary.* The Cooperative Agreement may be terminated by the Secretary whenever the Secretary finds, after giving due notice to the State and affording the State an opportunity for a hearing:

1. That the State has failed to comply substantially with any provision of the Cooperative Agreement; or

2. That the State has failed to comply with any assurance given by the State upon which the Cooperative Agreement is based, or any condition or requirement which is specified in Article III; or

3. That State action unrelated to surface coal mine reclamation will unreasonably and substantially prevent the mining of federal coal.

C. *Termination by Operation of Law.* This Cooperative Agreement shall terminate by operation of law when no longer authorized by federal laws and regulations.

D. *Notice of Proposed Termination.* Whenever the Secretary proposes to terminate the Cooperative Agreement he shall:

1. Give written notice to the Governor and to the State Agency specified in Article III.

2. Specify and set out in the written notice the grounds upon which he proposes to terminate the Cooperative Agreement.

3. Specify the date upon which and the place where the State will be afforded an opportunity for hearing and to show cause why the Cooperative Agreement should not be terminated by the Secretary. The date upon which such hearing shall be held shall be not less than 30 days from the date of such notice, and the place of hearing shall be in the State of Utah.

4. The Secretary shall also publish a notice in the Federal Register containing the items in 1–3 of this paragraph.

5. Within 30 days of the date of the written notice specifying the date of the hearing, the State shall file a written notice with the Secretary stating whether or not it will appear and participate in the hearing. The notice shall specify the issues and grounds specified by the Secretary for termination which the State will oppose or contest and a statement of its reasons and grounds for opposing or contesting. Failure to file a written notice in the Office of the Secretary within 30 days shall constitute a waiver of the opportunity for hearing, but the State may present or submit before the time fixed for the hearing written arguments and reasons why the Cooperative Agreement should not be terminated, and within the discretion of the Secretary may be permitted to appear and confer in per-

son and present oral or written statements, and other documents relative to the proposed termination.

E. *Conduct of Hearing.* The hearing will be conducted by the Secretary. A record shall be made of the hearing and the State shall be entitled to obtain a copy of the transcript. The State shall be entitled to have legal and technical and other representatives present at the hearing or conference, and may present, either orally or in writing, evidence, information, testimony, documents, records, and materials as may be relevant and material to the issues involved.

F. *Notice of Withdrawal of Approval of Cooperative Agreement.* After a hearing has been held, or the right to a hearing has been waived or forfeited by the State, the Secretary, after consideration of the evidence, information, testimony, and arguments presented to him shall advise the State of his decision. If the Secretary determines to withdraw approval of the Cooperative Agreement, he shall notify the State Agency of his intended withdrawal of approval of the Cooperative Agreement, and afford the State an opportunity to present evidence satisfactory to the Secretary that the State has remedied the specified defects in its administration of the Cooperative Agreement. The Secretary shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him, and upon failure of the State to do so within the time stated, the Secretary may thereupon withdraw his approval of the Cooperative Agreement without any further opportunity afforded to the State for a hearing.

ARTICLE X

REINSTATEMENT OF COOPERATIVE AGREEMENT

The Cooperative Agreement which has been terminated may be reinstated upon application by the State and upon giving evidence satisfactory to the Secretary that the State can and will comply with all the provisions of the Cooperative Agreement plan and has remedied all defects in administration for which the Cooperative Agreement was terminated.

ARTICLE XI

AMENDMENTS OF COOPERATIVE AGREEMENT

This Cooperative Agreement may be amended by mutual agreement of the State and Secretary. An amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The amendment shall be adopted after rulemaking and the party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment, and if rejected shall state the reasons for rejection.

ARTICLE XII

CHANGES IN STATE OR FEDERAL STANDARDS

The Secretary of the Interior or the State of Utah may from time to time revise and promulgate new or revised reclamation requirements or enforcement and administration procedures. The Secretary and the Governor shall immediately inform the other of any final changes in their respective laws or regulations. Each party shall, if it determines it to be necessary to keep this Cooperative Agreement in force, change or revise its respective laws or regulations. For changes which may be accomplished by rulemaking, each party shall have six months in which to make such changes. For changes which require legislative authorization, each party has until the close of its next legislative session at which such legislation can be considered in which to make the changes. If such changes are not made, then the termination provision of Article IX may be invoked.

ARTICLE XIII

QUALIFICATIONS AND EXPERIENCE OF PERSONNEL

The State Agency shall be adequately staffed with, or have readily available to it an adequate number of qualified personnel to carry out fully the requirements of the Cooperative Agreement. The personnel of the State Agency shall be so qualified that the end result of their efforts is comparable to that which would have resulted from administration by Department of Interior personnel.

ARTICLE XIV

CONFLICT OF INTEREST

No member of the State Agency or agencies responsible for the administration of the State law and rules and regulations relating to this Cooperative Agreement shall participate in the review, analysis, administration, decision-making, or enforcement actions relating to any operation subject to this Cooperative Agreement if such person has, directly or indirectly, any financial interest in a company, partnership, organization, or corporation (parent or subsidiary) which owns, operates or has a financial interest in such operation subject to this Cooperative Agreement.

ARTICLE XV

EQUIPMENT AND LABORATORIES

The State Agency shall have equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, analyses, can be performed or determined, and which are necessary to carry out the requirements of the Cooperative Agreement or have access to such facilities and personnel.

ARTICLE XVI

EXCHANGE OF INFORMATION

A. *Organizational and Functional Statement.* The State Agency and the Secretary shall advise each other of the organization, structure, functions, and duties of the offices, departments, divisions, and persons within their organizations. Each shall advise promptly the other in writing of changes in personnel, officials, heads of a department or division, or a change in the functions or duties of persons occupying the principal offices within the organization. The State Agency and the Secretary shall advise each other in writing the location of its various offices, addresses, telephone numbers, and the names, location, telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible, and shall advise promptly of any changes in such.

B. *Laws, Rules and Regulations.* The State Agency and the Secretary shall provide to each other copies of their respective laws, rules, regulations and standards pertaining to the enforcement and administration of this Cooperative Agreement and promptly furnish copies of any final revision of such laws, rules, regulations, and standards when the revision becomes effective.

ARTICLE XVII

RESERVATION OF RIGHTS

This Cooperative Agreement shall not be construed as waiving or preventing the assertion of any rights the Governor and the Secretary may have under the Mineral Leasing Act or the Constitution of the United States.

State of Utah,

SCOTT MATHESON,
Governor of Utah.

Department of the Interior,

THOMAS S. KLEPPE,
Secretary of the Interior.

[FR Doc.77-649 Filed 1-6-77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 242a]

BOARD OF REGENTS OF UNIFORMED SERVICES, UNIVERSITY OF THE HEALTH SCIENCES

Public Meeting Procedures

Correction

In FR Doc. 76-37531 appearing at page 55724 of the issue for Wednesday, December 22, 1976, on page 55726, from the fifth, sixth, and seventh lines of § 242a.5 (b), first column, page 55726, delete the phrase "determine by a recorded vote that Board or committee, as applicable,".

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 22]

[FRL 668-3]

ADMINISTRATIVE PRACTICES AND PROCEDURES

Financial Assistance to Participants in Agency Proceedings; Advance Notice of Proposed Rulemaking

1. *Introduction.* On June 11, 1976, a petition for rulemaking to provide for agency reimbursement of the costs of public participation in EPA decisionmaking was filed with EPA by the Environmental Defense Fund (EDF), joined by Consumers Union and the Center for Auto Safety. On October 20, 1976, the Administrator wrote to EDF expressing his opinion that "EDF's proposal has merit and warrants EPA's serious consideration," and promising to establish a task force of agency employees to explore the question and prepare recommendations. Although no final agency decision has yet been made, upon further consideration the merits of EDF's proposal appear clear enough to justify issuing this Advance Notice of Proposed Rulemaking to solicit comment. These comments should provide information that could then be used to prepare, if appropriate, a Notice of Proposed Rulemaking setting forth the mechanics of a permanent program in some detail. No money will be disbursed for funding participation in EPA decision-making until rulemaking proceedings are completed and a final rule has been issued.

Comments on all aspects of the proposed program, and in particular on the questions specified in part 5 below, are invited. All comments received on or before March 8, 1977, will be considered. Comments should be addressed to the

General Counsel (A–130), Environmental Protection Agency, 401 "M" Street, S.W., Washington, D.C. 20460, Attention: Public Participation ANPRM.

This proposal addresses only the question of public participation in EPA proceedings other than rulemakings held under authority of section 6 of the Toxic Substances Control Act (TSCA), 90 Stat. 2003, 2020–27 (October 11,1976). Explicit statutory authority to compensate participants in such rulemakings has been delegated to EPA, and EPA intends to make use of that authority. However, if a program of compensation for participation in other agency activities is authorized, it is anticipated that it will be similar in many respects to the compensation program under TSCA.

2. *Policy considerations.* The past decade or so has seen a very great increase in participation in agency proceedings by representatives of interests without a direct financial stake in the outcome. By now there is a substantial body of comment on this development by judges, legal scholars, agency officials, Congressional committees, and individual Congressmen.[1] Most of it speaks very favorably both of the technical abilities of these representatives and of the contribution they have made to better agency decisions. They have often provided facts and arguments relevant to the statutory purpose that would not otherwise have been urged on the agency and which the agency might not have uncovered or fully appreciated on its own.

Such groups and individuals have been particularly active in EPA proceedings, and past and present EPA officials have testified to the value of their contribution.

The lack of a financial stake in the outcome, however, has meant that participation in agency proceedings by representatives of these interests has often been constrained for lack of funds. Even at EPA, participation by such groups in agency decisions to which they could potentially have made a valuable contribution has been spotty, particularly where highly technical areas are concerned.

Accordingly, the view has grown up, and is expressed in much of the literature, that informed decisions by an agency as to what the statutory purpose requires would be assisted by wider representation of these interests, and that public funds should be made available where necessary to that end.

3. *Legal authority.* No EPA statute other than TSCA explicitly authorizes the payment of appropriated funds to assist public participation in agency proceedings. However, the Comptroller General of the United States has decided that even in the absence of such explicit authority such expenditures are proper in some circumstances.

In an opinion dated February 19, 1976, rendered at the request of the General Counsel of the Nuclear Regulatory Commission (NRC) the Comptroller General stated as the basic principle governing his decision the long-standing position of his office that

> where an appropriation is made for a particular object, purpose, or program, it is available for expenses which are reasonably necessary and proper or incidental to the execution of the object, purpose or program for which the appropriation was made, except as to expenditures in contravention of law or for some purpose for which other appropriations are made specifically available. [Citations omitted.] Comptroller General's decision No. B–92288, Feb. 16, 1976 at 3.

The Comptroller General emphasized that under this test the agency concerned would have broad authority to make either a positive or a negative decision on public funding. Applying these principles, he stated his final conclusion in two slightly different forms which we presume are meant to be equivalent in substance:

> In view of [these principles], if NRC in the exercise of its administrative discretion, determines that it cannot make the required determination unless it extends financial assistance to certain interested parties who require it, and whose participation is essential to dispose of the matter before it, we would not object to use of its appropriated funds for this purpose.
> Id. at 4.
>
> * * * * * *
>
> We hold only that NRC has the statutory authority to facilitate public participation in its proceedings by using its own funds to reimburse interveners when (1) it believes that such participation is required by statute or necessary to represent adequately opposing points of view on a matter and (2) when it finds that the intervenor is indigent or otherwise unable to bear the financial costs of participation in the proceedings.
> Id. at 7.

After this opinion was rendered, Congressman John Moss inquired of the Comptroller General whether the same result would apply to nine other agencies, including EPA. In a letter dated May 10, 1976, the Comptroller General replied that it would for the same reasons given in his formal opinion, and added "We would like to emphasize, however, that it is within the discretion of each individual agency to determine" whether the specified tests have been met.

EPA does not believe the Comptroller General means that funding is only authorized where without it the agency will be unable to make any decision at all, or unable to make a decision that will survive judicial review. Such tests are not the measure of the Agency's responsibility under its statutes. EPA's responsibility is rather to make the best decision possible with the time and resources available, and we believe it follows from this standard that EPA is authorized to fund participation whenever the funded participation, in EPA's judgment, is "necessary" or "essential" to that result. Indeed, any other reading would make the Comptroller General's opinion applicable to so few cases as to largely drain it of meaning.

Similarly, we do not believe that simply because a potential participant in an agency proceeding does have some resources which it might conceivably devote to that proceeding it should be held ineligible for funding. Such a view could lead to a "Catch-22" situation in which a group which might conceivably be eligible for funding in, for example, eight proceedings, and had enough resources of its own to participate adequately in three of them, might be denied funding for all eight because each of the eight might conceivably turn out to be one of the three in which it might choose to participate with its own resources. Instead, we believe that potential participants should be allowed to make a showing of what they would do without agency funding, and that agency funding should then be potentially available for any activity above that baseline.

4. *Draft regulation.* Although no final regulation giving permanent form to any EPA participation funding program will be promulgated, and no funds will be disbursed for that purpose, without a formal notice of proposed rulemaking and opportunity for comment on it, in this section we reproduce EDF's proposed regulation to give some advance idea of what such a proposal might contain. EPA does not endorse this regulation; it is proposed for preliminary comment only. Any final regulation would be the first regulation in a new Part 22 to Title 40 of the Code of Federal Regulations. This new Part would be entitled "Administrative Practices and Procedures."

EDF PROPOSAL

§ 22.1

(1) The Administrator may provide compensation for reasonable attorney's fees, expert witness fees, and other reasonable costs of participation incurred by eligible participants in any rulemaking, adjudicatory, or enforcement proceeding conducted pursuant to the Agency's authority, whenever public participation in such a proceeding promotes or can reasonably be expected to promote a full and fair determination of the issues involved in the proceeding.

(2) Any person is eligible to receive an award under this section for participation (whether or not as a party) in a rulemaking, adjudicatory, or enforcement proceeding if—

(i) The person represents an interest the representation of which contributes or can reasonably be expected to contribute substantially to the resolution of the subject matter of the proceeding, taking into account the number and complexity of the issues presented, the importance of public participation, and the need for representation of a fair balance of interests; and

(ii) (a) The economic interest of the person in the outcome of the proceeding is small in comparison to the costs of effective participation in the proceeding by that person or, in the case of a group or organization, the economic interest of the individual mem-

[1] The literature is well known and freely available and will not be analyzed in detail here. Full citations can be found in the FDA's republication of a petition parallel to this one, 41 FR 35855 et seq. (August 25, 1976), and in a volume of hearings on the subject, Hearings on S. 2715 before the Senate Subcommittee on Administrative Practice, 94th Cong., 2d Sess. (Jan. 30, 1976, February 6, 1976).

bers of such group or organization is small in comparison to the costs of effective participation in the proceedings; or

(ii) (b) The person demonstrates to the satisfaction of the Administrator that such person does not have sufficient resources available adequately to participate in the proceeding in the absence of an award under this section.

(3) (i) In order to facilitate public participation, the Administrator shall make a determination of the eligibility of a person for an award under this section, and the amount of such award, prior to the commencement of any proceeding, unless the Administrator makes an express written finding that such a determination cannot practically be made at that time.

(ii) Payment of fees and costs under this section shall be made within 90 days of the date on which a final decision or order disposing of the matters involved in the proceeding is made by the Administrator. If an eligible person establishes, in a manner to be prescribed by the Administrator, that its ability to participate in the proceeding will be impaired by the failure to receive funds prior to the conclusion of the proceeding, then the Administrator shall make the necessary advance payments to permit the person to participate or to continue to participate in the proceeding.

(iii) Reasonable attorney's fees, expert witness fees, and other reasonable costs of participation awarded under this section shall be based upon prevailing market rates for the kind and quality of service provided, but in no event shall expert witness fees exceed the rate of compensation (including fringe benefits and overhead) paid to EPA's expert witnesses, and other personnel with comparable experience and expertise.

5. *Questions.* Comment is requested on all aspects and implications of the funding proposal discussed above. Of particular importance however, are comments related to the detailed mechanical and policy problems of setting up and operating any actual compensation system. Whatever the general or theoretical merits of funding public participation in agency decision-making, EPA cannot responsibly take steps to establish a program to fund it until these questions have been answered in some detail, and in a way which provides a basis for concluding that the effort needed to administer it will not amount to an impractical burden. Those with an interest in seeing EPA proceed to the stage of practical implementation are therefore particularly advised to address the questions set forth below. If a decision to proceed further is then made, the answers will be used to prepare a detailed Notice of Proposed Rulemaking.

1. The budget for any program of compensating public participation is likely to be severely limited, particularly during the first few years. Accordingly, it will be necessary to set priorities for the use of what money is available. To help gather information on the basis of which such priorities can be established, all those who consider themselves potential recipients of funds under such a program are asked the following questions:

i. What EPA proceedings did you participate in during the last fiscal year? What was the nature and extent of your participation?

ii. If unlimited EPA funding for public participation in agency proceedings had been available during the past fiscal year, what agency proceedings would you have participated in? What would the nature and extent of your participation have been? How much agency funding would you have required for this level of participation?

iii. Please answer question ii on the assumption that the agency funding available was (a) a half (b) a quarter (c) an eighth (d) a sixteenth, of what you would have spent had funds been unlimited.

2. More generally, what standards of priority and eligibility for funding should be established under any compensation scheme? Should participation be restricted to or focused upon certain classes of agency proceedings? If so, what should they be and why? Should certain classes of proceedings be excluded or given lower priority, such as enforcement proceedings or informal meetings? If so, what should they be, and why?

Should all expenses be eligible for compensation, or should certain types of expense be excluded from the outset? If the latter, what should be excluded? Should certain types of expense (such as fees for expert witnesses) be more readily compensated than others? If so, what should they be?

How should applicants for funding be evaluated? Should any potential applicants be excluded from the beginning? Should any be treated particularly favorably? If so, what should the criteria be?

Commenters who have answered question 1 are encouraged to integrate their responses to that question into their answer to this one.

3. Details of administration must also be settled before any program can be implemented. In this connection:

i. It would seem that the program office[1] most directly involved with a particular proceeding should make decisions as to funding since it is in the best position to judge the contribution to the decision that such funding can make. Are there reasons why such an approach should not be adopted? What alternatives are there, and what are the arguments in favor of them?

ii. When should decisions on funding be made, and when should the money be disbursed—before a proceeding or shortly after its close? Is some combination of these approaches the best alternative? If so, what should it be?

iii. In general, what method of administering such a program can you suggest that would both hold costs of administration down to a small fraction of the money disbursed and at the same time be fair to all concerned and be perceived as fair to all concerned?

This Advance Notice of Proposed Rulemaking is issued under authority of Section 301(a) of the Clean Air Act, 42 U.S.C. 1857(a), Section 501(a) of the Federal Water Pollution Control Act, 33 U.S.C. 1361(a).

(Sec. 25(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 (w), and sec. 1450(a) of the Safe Drinking Water Act, 42 U.S.C. 300j-9, 7004 of the Solid Waste Disposal Act, 42 U.S.C. 6974, and 108 of the Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C. 1418.)

Dated: January 3, 1977.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.77-651 Filed 1-6-77;8:45 am]

[1] E.g., Office of Water Planning and Standards, Office of Noise Abatement and Control, Office of Pesticides Programs.

[40 CFR Part 52]

[FRL 667-7]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Proposed Amendments to the Utah Transportation Control Plan

On June 22, 1973 (38 FR 16550) the Administrator disapproved the control strategy for carbon monoxide contained in the Utah transportation control plan which was submitted to EPA on April 16, 1973. The Administrator proposed a substitute plan for the attainment and maintenance of the national ambient air quality standards for carbon monoxide in the Wasatch Front Intrastate Air Quality Control Region on July 16, 1973 (38 FR 18964).

Following public hearings in Salt Lake City in July and August of 1973, the Administrator promulgated a transportation control plan for the Wasatch Front AQCR on November 27, 1973 (38 FR 32663).

The EPA plan included specific carbon monoxide reduction strategies for Ogden, Provo and Salt Lake City, and required the State to implement a retrofit and inspection/maintenance program in a four-county area.

Since the promulgation of the federal plan, the State has been working to revise its plan to incorporate more recent data on carbon monoxide emission reductions anticipated from the Federal Motor Vehicle Control Program and the retrofit and inspection/maintenance strategies. On September 7, 1976, EPA received Utah's revised transportation control plan which was adopted by the Utah Air Conservation Committee on July 29, 1976 and the State Board of Health on August 18, 1976. The revised plan includes a summary of ambient carbon monoxide concentrations in the Wasatch Front AQCR through 1975 and a control strategy which predicts that the national standards for carbon monoxide will be attained in the region by December 31, 1978. The second highest 8-hour carbon monoxide concentrations on which the control strategies are based were: Salt Lake City—22 ppm (1970), Ogden—22 ppm (1973), and Provo—20 ppm (1971). A summary of the transportation control strategies and the anticipated reductions in carbon monoxide emissions are presented in Table 1.

TABLE 1.—*Summary of the effect of the Utah transportation control plan by Dec. 31, 1978*

Transportation control measure	Reduction in cargon monoxide emissions (percent)		
	Salt Lake City	Ogden	Provo
1. FMVCP	43	47	48
2. Inspection and maintenance program	4	4	4
3. Salt Lake City:			
(a) Reduce Main St. traffic	3		
(b) Reduce traffic circulation	6		
(c) Traffic flow improvements	3		
(d) Mass transit improvements	2		
4. Ogden:			
(a) Traffic operations improvements		5	
(b) 20th to 21st St. link to I-15		1	
(c) Mass transit improvements		5	
(d) I-80 bypass		1	
5. Provo:			
(a) Traffic flow measures			16
(b) Mass transit improvements			2
Total reductions	62	63	68
Reductions required	59	59	55

Many of the individual strategies for the cities have already been implemented, with only the traffic flow improvements in Ogden and Salt Lake City and the 20th–21st Street link to I–15 in Ogden yet to be completed. Based on the results of detailed retrofit studies conducted at high-altitude by the State of Colorado and EPA which indicated that the retrofit strategies would not achieve the emission reductions anticipated, the revised Utah plan has eliminated these strategies.

The Regional Administrator believes that based on currently published information, the revised Utah plan, when fully implemented, should result in the attainment and maintenance of the national standards for carbon monoxide throughout the Wasatch Front AQCR and that the schedule for implementing these strategies is as expeditious as practicable. Therefore, this notice proposes to approve the State's transportation control plan and revoke the current EPA plan. Before final action can be taken, however, the State needs to obtain authority to charge vehicle inspection fees and must also adopt regulations to implement the inspection/maintenance program contained in the revised plan. Although the emission reductions that are likely from several of the control measures are uncertain, recent information indicates that the carbon monoxide reduction achievable from inspection/maintenance is much greater than that estimated in the State plan. Consequently, the Agency will defer final action on the proposal until the State has had an opportunity to obtain the necessary authority and regulations.

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Office of Regional Counsel, U.S. Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colorado 80295. All relevant comments received on or before January 31, 1977 will be considered. Copies of the revised State plan will be available for public inspection and copying at the address given above, at EPA's Public Information Reference Unit, Room 2922, 401 M Street, S.W., Washington, D.C. 20460, and at the EPA office located in Room 4223, Federal Building, 125 South State Street, Sale Lake City, Utah 84111. This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 U.S.C. 1857c–5).

Dated: December 23, 1976.

ROGER WILLIAMS,
Regional Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart TT—Utah

1. In § 52.2320, paragraph (c), paragraph (5) is added as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(5) Revised transportation control plan submitted August 31, 1976, by the Governor.

§ 52.2335 [Revoked]

2. Section 52.2335 is revoked.

§ 52.2336 [Revoked]

3. Section 52.2336 is revoked.

§ 52.2338 [Revoked]

4. Section 52.2337 is revoked.

§ 52.2338 [Revoked]

5. Section 52.2338 is revoked.

§ 52.2339 [Revoked]

6. Section 52.2339 is revoked.

§ 52.2340 [Revoked]

7. Section 52.2340 is revoked.

§ 52.2341 [Revoked]

8. Section 52.2341 is revoked.

§ 52.2342 [Revoked]

9. Section 52.2342 is revoked.

§ 52.2343 [Revoked]

10. Section 52.2343 is revoked.

[FR Doc.77-544 Filed 1-6-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE MARKETING ORDER NO. 905–7 CFR PART 905 REGULATING THE HANDLING OF ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Public Meeting

Pursuant to the provisions of 10(a)(2) of the Federal Advisory Committee (86 Stat. 770), notice is hereby given of a meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The committee will meet in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, at 10:30 a.m., on January 25, 1977.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the committee includes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802: telephone 813–682–3103.

Dated: January 3, 1977.

WILLIAM T. MANLEY,
Deputy Administrator
Program Operations.

[FR Doc.77–582 Filed 1–6–77;8:45 am]

Food and Nutrition Service

NATIONAL ADVISORY COUNCIL ON MATERNAL, INFANT AND FETAL NUTRITION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

Name: National Advisory Council on Maternal, Infant and Fetal Nutrition.
Date and time: February 9–10, 1977: 8:30 a.m.
Place: Holiday Inn, 175 Piedmont Avenue, Atlanta, Georgia.
Purpose of meeting: The Council will study and discuss various issues concerning the operation of the Special Supplemental Food Program for Women, Infants and Children (WIC).
Proposed agenda: The agenda will cover the WIC Program's proposed regulations, and issues related to Program operations to be dealt with in the Advisory Council's report to the Congress.
This meeting will be open to the public.

Persons wishing to attend the meeting as observers, or wishing to submit written comments, should write Bill Shaw, Special Supplemental Food Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–8421.

Dated: January 3, 1977.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.77–540 Filed 1–6–77;8:45 am]

Commodity Credit Corporation

[Amdt. 3]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Period July 1, 1976 Through May 31, 1977); CCC-Owned Commodities Notice to Buyers

The CCC Monthly Sales List for the period July 1, 1976 through May 31, 1977, published at 41 FR 29198 is amended as follows:

1. The last sentence of Section 1(b) entitled "General" is revised to read as follows:

Interest at 8 percent will be charged for delinquent payments on dairy product sales and on consignment and track grain sales.

2. Section 31 is added which reads as follows:

Peanut Farmers Stock—Restricted Use Sales—Crushing or Export—(Segregation 1 lots)

1. The minimum price is the market price but not less than the formula price which is 100 percent of the 1976 crop price support value (prior to deduction for storage, handling and inspection) for the applicable location type and quality, plus a markup. On December 6, 1976, a markup will begin to accumulate at the rate of $1.00 per net ton per week (farmers stock basis).

2. Pending final determination of 1976 price support values the following factor shall apply for sales purposes:

Type	SMK dollars per percent net ton basis	OK dollars per percent net ton basis	LSK dollars per pound	ELK dollars per percent net ton basis
Runner	5.803	1.40	0.07	
Spanish	5.803	1.40	.07	
Virginia	5.919	2.00	.10	0.63
Valencia	6.382	2.00	.10	

3. Sales are made under announcement PV–P–FS–1. When stocks are available, lot lists or invitations to bid will be issued by peanut associations for submission of competitive bids each Monday to the Prairie Village ASCS Commodity Office.

4. Permissible uses of the peanuts, which are listed in more detail in announcement PV–P–FS–1, include the export of shelled peanuts, of any type, which grade U.S. Splits or U.S. No. 1 or better or "With Splits" grades as defined in Marketing Agreement for Peanuts No. 146, and the remaining kernels crushed domestically or exported for crushing if fragmented in accordance with PV–P–FS–1.

3. Section 32 is added which reads as follows:

Peanuts, Farmers Stock—Restricted Use Sales—Domestic Crushing and Domestic Use of Oil (Segregation 1 and 2 lots)

Competitive offer basis under Announcement PVP–DCO–1. Adjustments in the sales price, for oil and ammonia content, will be made after delivery. Proof of domestic utilization of peanut oil will be required per Announcement PVP–DCO–1.

When stocks are available, lot lists or invitations to bid will be issued by peanut associations for submission of bids each Monday to the Prairie Village ASCS Commodity Office.

4. Section 33 is added which reads as follows:

Peanut Oil, Prime Crude—Restricted Use Sales—Domestic Use (Bulk—FOB origin—Carlot Quantities)

Competitive offer basis under Announcement PVP–CPO–1 with issuance of invitations by and submission of bids to the Prairie Village ASCS Commodity Office. Proof of domestic utilization is required per Announcement PVP–CPO–1.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427).)

Effective date: 2:30 p.m. (EST) November 30, 1976.

Signed at Washington, D.C. on December 27, 1976.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77–581 Filed 1–6–77;8:45 am]

Rural Electrification Administration

NORTHERN MICHIGAN ELECTRIC COOPERATIVE, INC., BOYNE CITY, MICHIGAN

Proposed Loan Guarantee

Under the Authority of Pub. L. 93–32 (87 STAT. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power

Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $135,000,000 to Northern Michigan Electric Cooperative, Inc., of Boyne City, Michigan. These loan funds will be used to finance the purchase of 11.22 percent of Detroit Edison Company's Enrico Fermi No. 2 nuclear powered 1100 MW generating unit and to construct approximately 48 miles of transmission line.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Clyde L. Johnson, Jr., General Manager, Northern Michigan Electric Cooperative, Inc., P.O. Box 138, Boyne City, Michigan 49712.

In order to be considered, proposals must be submitted on or before February 7, 1977, to Mr. Johnson. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Northern Michigan Electric Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 28 day of December, 1976.

DAVID H. ASKEGAARD,
Acting Administrator,
Rural Electrification Administration.

[FR Doc.77-347 Filed 1-6-77;8:45 am]

WOLVERINE ELECTRIC COOPERATIVE, INC., BIG RAPIDS, MICHIGAN

Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $106,000,000 to Wolverine Electric Cooperative, Inc., of Big Rapids, Michigan. These loan funds will be used to finance the purchase of 8.78 percent of Detroit Edison Company's Enrico Fermi No. 2 nuclear powered 1100 MW generating unit and to construct approximately 21 miles of transmission line.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. John N. Keen, Manager, Wolverine Electric Cooperative, Inc., P.O. Box 1133, Big Rapids, Michigan 49307.

In order to be considered, proposals must be submitted on or before February 7, 1977, to Mr. Keen. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Wolverine Electric Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 28th day of December, 1976.

DAVID H. ASKEGAARD,
Acting Administrator, Rural Electrification Administration.

Acting Administrator,
Rural Electrification Administration.

[FR Doc.77-348 Filed 1-6-77;8:45 am]

Office of the Secretary

ADVISORY COMMITTEE ON CONTAINER STANDARDS FOR FRESH FRUITS AND VEGETABLES

Establishment

Pursuant to section 9(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), and after consultation with the Office of Management and Budget, the Secretary of Agriculture has determined that it is in the public interest to establish an Advisory Committee on Container Standards for Fresh Fruits and Vegetables.

The purpose of this committee will be to study the problems associated with voluntary container standards and to recommend ways to reduce the number of different shipping containers used for fresh fruits and vegetables to encourage uniformity and consistency in commercial practices and to promote more efficient handling of said shipping containers. The committee will include representatives of all segments of the fresh fruit and vegetable industry including producers, packers, carriers, wholesalers, retailers and consumers.

Any comment on the establishment of this committee may be directed to Floyd F. Hedlund, Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, not later than January 21, 1977.

All written submissions made pursuant to this notice shall be made available for public inspection at the Office of Director, Fruit and Vegetable Division, during regular business hours.

Dated: January 4, 1977.

J. PAUL BOLDUC,
Assistant Secretary
for Administration.

[FR Doc.77-580 Filed 1-6-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Order 77-1-6; Docket 30252]

BRITISH AIRWAYS

Transatlantic Specific Commodity Rates; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23rd day of December, 1976.

On December 6, 1976, British Airways filed tariff revisions proposing several new specific commodity rates (SCR's) for traffic from the United Kingdom to the United States, to be effective January 5, 1977.[1] The rates, for items 2102 (Cloth), 6807 (Plastic Foil and/or Sheets) and 7047 (Decals), would be set at a level of 28 U.K. pence per kg., with a minimum weight of 4,000 kgs., from London, Glasgow, and Manchester to New York. Complaints requesting suspension pending investigation have been submitted by Pan American World Airways, Inc. (Pan American), Seaboard World Airlines, Inc. (Seaboard), and Trans World Airlines, Inc. (TWA).

In support of its proposal, British Airways alleges that the rates are necessary to move the affected commodities by air rather than surface; that in the last three months well over half the traffic that could be carried at these rates has reverted to surface transportation; and that all of these commodities are extremely dense (over 13 kgs. per cu. ft.) and would produce a much higher yield per cu. ft. than the regular, general container rates.

The complainants generally assert that British Airways' proposed SCR's are patently uneconomic, represent significant reductions (35-42 percent) from the rates currently applicable to these commodities, and would produce yields far below the U.S. carriers' costs of service; that the proposal runs directly counter to the Board's long-standing policy, repeatedly expressed in orders and policy statements, of urging the carriers to reduce reliance on discounted specific commodity rates; and that British Airways has provided no meaningful data or support for its allegations about the movement of this traffic on surface as opposed to air transportation. TWA adds, with supporting U.S. Commerce Department data, that over the last year air traffic, as a percent of the total U.K.-U.S. air/surface traffic in these commodities, has actually increased and thus, there has been no diversion to surface; and that the applicable surface rates for these items are still so far below even the reduced rates proposed by British Airways

[1] Filed by John M. Sampson, Agent, Tariff C.A.B. No. 19.

that the latter offer no serious generative value.

Upon consideration of the tariff filing, the complaints, and all other relevant matters, the Board has concluded that the proposed rates may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. The Board further concludes that the rates should be suspended pending investigation.

The Board, in its policy statements and in prior orders, has often urged the carriers to reduce their reliance on specific commodity rates to move so large a portion of international cargo traffic. Any new commodity rates should be introduced for the specific purpose of attracting new traffic to air, should have a strong generative potential with a minimum possibility of diverting traffic already moving at existing air rates, and should be priced at the maximum level possible, reflecting the value of air service to the shipper. The subject rates are proposed at levels which appear to be so significantly below the costs of service that we could accept them only upon the most convincing showing that they offer a real potential for generating new traffic with little possibility of diversion from existing rates. In this respect British Airways fails to justify adequately the reduced rates contemplated in the proposal.

The SCR's proposed by the carrier would produce yields ranging from 12.21 to 13.14 cents per revenue ton-mile (RTM), far below the U.S. carriers' transatlantic freighter costs which ranged from 23.15 to 32.04 cents per RTM for the year ended June 30, 1976, the latest period for which data are available. In fact, the proposed rates are even lower than the U.S. carriers' all-cargo cost per available ton-mile (ATM) and, therefore, appear to be unreasonably low on their face. In addition, while British Airways claims that half of the traffic in the relevant items has "reverted to surface" in the last three months, it has provided no supporting evidence, no comparison of surface and air rates, and no explanation why this traffic should shift from air transportation to surface means when the rates in either mode have not changed.[2] The complainants, on the other hand, have provided detailed data which indicate there is no reason to believe that there has been such a massive movement of this traffic from air to surface, or that the proposed rate reductions would generate any new traffic.

British Airways has furnished no estimates of the volume of traffic it expects to move on the proposed rates, or of the effects on load factor, existing traffic, or revenue. Even its allegation that the commodities involved are of unusually high density, and hence are entitled to a lower rate, is unsupported by any evidence.

In summary, British Airways has provided no basis whatsoever for the filing of such extremely low rates, which appear to have no rational foundation in costs or generative potential. The complaints have raised such serious doubts about the reasonableness of the SCR's here proposed that the Board has concluded the rates should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204(a), 403, 404, 801, and 1002(j) thereof,

IT IS ORDERED THAT:

1. An investigation be instituted to determine whether the rates and provisions for Item Nos. 2102, 6807 and 7047 from Glasgow, Scotland, London, England and Manchester, England to New York, New York on 14th Revised Page 130, 18th Revised Page 134 and 21st Revised Page 136-A of Tariff C.A.B. No. 19, issued by John M. Sampson, Agent, and rules, regulations, or practices affecting such rates and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to take appropriate action to prevent the use of such rates and provisions and rules, regulations, or practices;

2. Pending hearing and decision by the Board, the tariff rates and provisions specified in ordering paragraph 1 above are suspended and their use deferred from January 5, 1977 to and including January 4, 1978, unless otherwise ordered by the Board and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[3] and shall become effective on January 5, 1977;

4. The investigation ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated;

5. Except to the extent granted herein, the complaints of Pan American World Airways, Inc., Seaboard World Airlines, Inc., and Trans World Airlines, Inc., in Dockets 30172, 30186, 30190, respectively, be and hereby are dismissed; and

6. Copies of this order be filed in the aforesaid tariffs and be served upon British Airways, Inc., Pan American World Airways, Inc., Seaboard World Airlines, Inc., and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-635 Filed 1-6-77; 8:45 am]

[Order 77-1-9; Docket 29751]

PIEDMONT AVIATION INC.

Removal of a One-Stop Restriction Between New York City and Tri-City, Tenn./Va.; Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 4th day of January, 1977.

On September 7, 1976, Piedmont Aviation filed, in Docket 29751, an application for an order to show cause why its certificate of public convenience and necessity for Route 87 should not be amended so as to remove Piedmont's one-stop restriction between Tri-City, Tenn./Va.[1] and New York, N.Y.-Newark, N.J.[2]

On September 16, 1976, Allegheny Airlines, Inc., filed an answer in opposition to Piedmont's motion for an order to show cause. The Tri-City Airport Commission filed an answer on September 29, 1976, and requested that the Board defer action on the Piedmont application until sixty days following final decision in the *Service to Tri-City Case*, Docket 29014. On September 24, 1976, Piedmont filed a reply to the Allegheny answer together with a motion for leave to file an otherwise unauthorized document.[3]

In support of its application, Piedmont states that it now provides three round-trip flights between Tri-City and New York, two of these flights serve one intermediate point, and the third serves two intermediate points; that New York-Tri-City is a sizeable market with potential for growth; that removal of the restriction will permit Piedmont to convenience many passengers with its nonstop service; and that removal of the restriction will have little or no adverse impact on United the carrier which holds unused nonstop authority in the market. Piedmont anticipates that it will add a new flight on a nonstop basis, or that it will change one of its existing one-stop flights to a nonstop.

Upon consideration of the foregoing and all of the relevant facts, we have tentatively concluded that the public convenience and necessity require the removal of Piedmont's one-stop restric-

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[2] These rates were previously filed several times, but rejected by the Board's Tariffs Section for technical violations of the Economic Regulations; on each occasion complaints were filed by the U.S. carriers. Armed with the almost certain knowledge that there again would be complaints filed, as well as their probable content, British Airways inexplicably presented a justification which was completely lacking in factual support and documentation for its allegations of the "need" for these extremely low rates.

[3] This order was submitted to the President on December 23, 1976.

[1] The point appears as "Bristol, Va.-Tenn.-Kingsport-Johnson City, Tenn." on Piedmont's certificate. All of these cities are served through the same Tri-City airport and we will hereinafter refer to the point as "Tri-City," since that is its popular designation.

[2] Piedmont's current certificate was issued pursuant to Order 76-3-171, March 26, 1976. The one-stop restriction between Tri-City and New York City is listed in condition 4.

[3] We will grant the motion and receive Piedmont's reply.

tion in the Tri-City-New York market; that the application presents no questions of fact or law which require a hearing; and that all interested persons should be directed to show cause why the Board's tentative findings and conclusions herein should not be made final.[4]

In support of our ultimate determination, we make the following tentative findings and conclusions. The principal benefit which will derive from the grant of improved authority to Piedmont will be the provision of more convenient service between Tri-City and New York. On the basis of traffic data for the 12 months ended September 30, 1975, New York, with 26,190 true O&D passengers, is Tri-City's largest market without nonstop service.[5] Piedmont's present one and two-stop flights have an average elapsed time of 2 hours and 12 minutes. The modification proposed here will permit Piedmont to reduce travel time on its flights between Tri-City and New York by approximately 41 minutes.[6]

We further find that the relaxation proposed here is consistent with the Board's often reiterated general policy of eliminating or modifying certificate restrictions, the retention of which have been placed in issue, absent an affirmative showing that their continuance is required.[7] The authority requested involves no new stations or equipment for Piedmont and will permit the carrier more scheduling and operating flexibility.

Allegheny, in its answer, objects to the Board's taking any action on the Piedmont request at this time. Allegheny argues that the Board should deny the Piedmont petition or at least defer action upon it until final decision in the Service to Tri-City Case, Docket 29014. In Allegheny's opinion, if United is not deleted at Tri-City, pursuant to its request, which is now being heard in the Service to Tri-City Case, then the Board would not consider the need for a second nonstop authorization; if United is deleted, and Allegheny is authorized to serve Tri-City-Pittsburgh, then Allegheny will hold one-stop authority between Tri-City and New York and will be able to offer service in the market which will be equal to Piedmont's current best service. In these circumstances, Allegheny urges that the award of nonstop authority to one of two carriers holding one-stop authority without a hearing would be inappropriate. Allegheny also argues that Piedmont has offered insufficient evidence on which to base an award of new authority, especially in the absence of a hearing.

It is our tentative view that neither Allegheny nor the Tri-City Airport Commission has provided valid reasons for deferring action upon Piedmont's request. An initial decision in the Tri-City case has already been issued and the case is currently awaiting disposition by the Board. We are mindful of the possible overlap between that case and Piedmont's request for improved Tri-City-New York authority and we are capable of weighing all relevant matters in reaching our ultimate disposition of both proceedings.

We further tentatively find that the grant of Piedmont's application will have no significant effect on United, which has not filed in opposition to Piedmont's request. United holds unrestricted nonstop authority in the market, but currently offers a single two-stop round trip inaugurated in September 1976.[8]

Piedmont's unchallenged estimate is that only $38,498 of United's traffic revenue and less than $70,000 of the traffic revenue of other carriers would even be subject to diversion should the restriction in question be lifted. Consequently, we tentatively find that such slight possible diversion is more than outweighed by the carrier and public benefits—improved scheduling and equipment flexibility and expedited air service between Tri-City and New York—which should flow from the proposed action.[9]

Interested persons will be given thirty days from the date of the adoption of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to set forth their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending the certificate of public convenience and necessity of Piedmont Aviation, Inc. for Route 87 so as to eliminate the one-stop restriction in condition 4 on flights between Tri-City, Tenn./Va. and New York, New York-Newark, N.J.;[10]

2. Any interested person having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein, shall, within thirty days after the date of the adoption of this order, file with the Board and serve upon all persons listed in paragraph 5 a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;[11]

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

5. A copy of this order will be served upon Piedmont Aviation, Inc., United Air Lines, Inc., Allegheny Airlines, Inc., Southern Airways, Inc., the Governor of New York, the Director of the New York Port Authority, the Aeronautics Division of the Virginia Corporation Commission, the Tennessee Aeronautics Commission, the Mayors of the Cities of New York, New York; Newark, New Jersey; Bristol, Kingsport, and Johnson City, Tennessee; and Bristol, Charlottesville, Lynchburg, and Roanoke, Virginia; and upon the Tri-City Airport Commission; and

6. The motion of Piedmont Aviation, Inc., for leave to file an otherwise unauthorized document be and it hereby is granted.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-634 Filed 1-6-77; 8:45 am]

[Docket 28213]

YUSEN AIR & SEA SERVICE COMPANY, LTD., (JAPAN)

Indirect Foreign Air Carrier Permit Renewal; Notice of Reassignment of Proceeding

This proceeding has been reassigned from Administrative Law Judge Janet

[4] We further find that Piedmont is a citizen of the United States within the meaning of the Act and is fit, willing, and able properly to perform the transportation proposed herein and to conform to the provisions of the Act and the Board's rules, regulations, and requirements, thereunder.

[5] Civil Aeronautics Board Origin and Destination Survey, 1975, Table 8.

[6] Piedmont Exhibit Pi-8.

[7] See e.g., Order 75-7-15, July 2, 1975; Order 74-7-63, July 16, 1974; Order 69-6-87, June 17, 1969. Thus, Piedmont's nonstop authority, if finalized, would be permissive in character giving carrier management the discretion to operate nonstop in accordance with traffic requirements.

[8] Prior to that time, United's flights serving Tri-City did not serve New York on a regular basis.

[9] Piedmont has submitted an evaluation of the environmental impact of its proposed new service. The evaluation indicates that the impact of the new service will be slight and that the preliminary findings do not show a need for further evaluation. Consequently, we also tentatively find and conclude that the Board action sought by the applicant will not result in a major federal action significantly affecting the environment within the meaning of the National Environmental Policy Act of 1969 (NEPA).

[10] Any award of new route authority to Piedmont in the final order will be subsidy ineligible.

[11] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

D. Saxon to Administrative Law Judge Frank M. Whiting. Future communications should be addressed to Judge Whiting.

Dated at Washington, D.C., January 3, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-633 Filed 1-6-77;8:45 am]

OFFICE OF THE FEDERAL REGISTER

LEGAL DRAFTING WORKSHOP

Announcement

The Office of the Federal Register announces a legal drafting workshop beginning at 9:00 a.m. on Wednesday, January 26, 1977, and ending on Tuesday afternoon, February 1, 1977.

The workshop meets in the Federal Register Conference Room, Room 9409, 9th floor, 1100 L Street, NW, Washington, DC.

The workshop is open only to Federal agency personnel who draft regulations, preambles, or notices for publication in the FEDERAL REGISTER.

The workshop covers the following areas:

1. Legal drafting techniques—Preferred usage, Organization, Clarity;
2. Legal drafting exercises—Regulations, Preambles, Notices;
3. Review and discussion of documents for the use of legal drafting techniques and for substance;
4. How to comply with new preamble requirements ((1 CFR 18.12) effective date: April 1, 1977);
5. The regulatory process—Where has it been, Where is it going; and
6. The role of the FEDERAL REGISTER and how to use it.

The workshop schedule provides ample time for drafting assignments.

Space is extremely limited and reservations are required. Reservations may be made by calling Dean Smith at 202-523-5282.

FRED J. EMERY,
Director, Office of the Federal Register.

JANUARY 6, 1977.

[FR Doc.77-835 Filed 1-6-77;10:19 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on relationship to the head of the household, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the Decennial Census.

Summary results of special censuses are published semiannually in the Current Population Reports—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since June 30, 1976, for which tabulations were completed between December 1, 1976, and December 31, 1976.

Dated: January 3, 1977.

ROBERT L. HAGAN,
Acting Director,
Bureau of the Census.

State/place or special area	County	Date of census	Population
Arkansas:			
Blue Mountain, city.	Logan	Oct. 4	157
Central City, town.	Sebastian	Oct. 25	361
McCrory, city	Woodruff	Oct. 8	1,896
Illinois:			
Bourbonnais, village.	Kankakee	Oct. 28	10,620
Harvard, city	McHenry	Oct. 6	5,156
Marengo, city	do	Oct. 19	4,104
Troy, city	Madison	Oct. 22	2,818
Iowa:			
Asbury, town	Dubuque	Aug. 2	1,098
Hartford, city	Warren	Sept. 22	801
Michigan:			
Brighton, city	Livingston	Oct. 21	3,437
Ida, township	Monroe	Oct. 16	4,086
Lowell, township	Kent	Oct. 12	3,363
Sterling Heights, city.	Macomb	Sept. 21	92,904
Unadilla, township.	Livingston	Oct. 19	2,405
Minnesota: Biwabik, city.	St. Louis	Oct. 12	1,483
Missouri: Lake St. Louis, town.	St. Charles	do	2,445
North Carolina: Mint Hill, town.	Mecklenburg	July 12	4,009
Pennsylvania:			
Bear Creek, township.	Luzerne	Oct. 4	2,450
Hamilton, township.	Franklin	Oct. 13	5,675
Murraysville, borough.	Westmoreland	Sept. 28	14,640
Penn Lake Park, borough.	Luzerne	Oct. 7	178
South Carolina: Greenville, city.	Greenville	Sept. 13	57,849
South Dakota: Hot Springs, city.	Fall River	Oct. 18	4,728
Texas: San Angelo, city—Annexed areas only.	Tom Green	do	2,605
Wisconsin:			
Boaz village	Richland	Nov. 3	145
Sturgeon Bay, city.	Door	Oct. 21	7,764

[FR Doc.77-467 Filed 1-6-77;8:45 am]

Domestic and International Business Administration

PRESIDENT'S EXPORT COUNCIL TASK FORCE ON EXPORT PROMOTION

Termination

Correction

In FR Doc. 76-37975 appearing on page 56378 of the issue for Tuesday, December 28, 1976, the termination date in the last line of the first paragraph, reading "December 31, 1975", should read "December 31, 1976".

CORNELL UNIVERSITY, ET AL

Consolidated Decision on Applications for Duty-Free Entry of Scientific Article: Correction

In the Notice of Consolidated Decision on Application for Duty-Free Entry of Scientific Articles appearing at page 55218 of the FEDERAL REGISTER of Friday, December 17, 1976, the following dockets should be deleted:

Docket Number: 76-00317. Applicant: IIT Research Institute, 10 West 35th Street, Chicago, Illinois 60616. Article: Mass Spectrometer, MAT 311A. Date of denial without prejudice to resubmission: July 14, 1976.

Docket Number: 76-00327. Applicant: Methodist Hospital of Indiana, Inc., 1604 North Capitol Avenue, Indianapolis, Indiana 64202. Article: Electron Microscope, Model EM 201C and attachments. Date of denial without prejudice to resubmission: July 9, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-610 Filed 1-6-77;8:45 am]

UNIVERSITY OF IOWA ET AL

Application for Duty-Free Entry of Scientific Articles: Correction

In the Notice of Application for Duty-Free Entry of Scientific Articles appearing at page 55923 in the FEDERAL REGISTER of Thursday, December 23, 1976, the following correction should be made:

Docket Number: 77-00048 should be corrected to read:

Docket Number 77-00048. Applicant: University of Cincinnati, Dept. of Physics, Cincinnati, Ohio 45221. Article: Makrafoil Scanner (partially fabricated). * * *

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.77-611 Filed 1-6-77;8:45 am]

National Oceanic and Atmospheric Administration

AQUARIUM OF CAPE COD, INC.

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Aquarium of Cape Cod, Inc., Route 28, West Yarmouth, Massachusetts 02673, to take two (2) Atlantic bottlenosed dolphins (*Tursiops truncatus*) for public display.

The requested dolphins will be taken by a professional collector from the Gulf of Mexico, by means of an encircling net. The dolphins will be transported to the facility via commercial freight and truck, with a qualified staff member of the collector accompanying the shipment.

The animals will be displayed in a pool 39 feet by 24 feet by 10 feet deep with a holding pool 15 feet by 15 feet by 10 feet deep.

The dolphins are desired to provide recreational and education benefits to the 110,000 visitors that visit the facility annually. The facility is operated for profit. The staff has 4 to 5 years experience working with marine mammals.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before February 7, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

DECEMBER 15, 1976.

[FR Doc.77-561 Filed 1-6-77;8:45 am]

SEA LIFE, INC.

Receipt of Application for Public Display Permit

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Sea Life, Inc., Makapua Point, Waimanalo, Hawaii 96795, to take four (4) pygmy killer whales (*Peresa attenuata*) and four (4) melon-headed whales (*Peponocephala electra*) for public display.

The animals will be captured in the waters off the Hawaiian Islands by Sea Life's collecting staff supervised by Dr. Shallenberger. Capture will be done by using a specially modified collecting boat by means of a hoop net.

The requested animals will be displayed at the facilities Ocean Science Theater. The display consists of a glass walled tank, 50 feet in diameter and 12 feet deep, with four connecting holding tanks, each 7 feet deep. In addition, Sea Life Park has several large cetacean pools ranging from 11,000 to 1.8 million gallons.

The display is for profit, open daily to the public with an annual attendance of 500,000 visitors .The staff has from five to ten years experience working with marine mammals.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before February 7, 1977. Those ndividuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

JANUARY 3, 1977.

MORRIS M. PALLOZZI,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-560 Filed 1-6-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Addition

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 77, of the proposed addition of the following commodity to Procurement List 1977, November 18, 1976 (41 FR 50975).

Military Resale Item No. 901

Broom, Mixed Fiber.

If the Committee approves the proposed addition, all entities of the Government will be required to procure the above commodity from workshops for the blind or other severely handicapped.

Comments and views regarding the proposed addition may be filed with the Committee on or before February 7, 1977. Communications should be addressed to the Executive Dierctor, 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 (July 7, 1977).

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-615 Filed 1-6-77;8:45 am]

PROCUREMENT LIST 1977

Proposed Deletions

Notice is hereby given pursuant to section 2(a)(2) of Pub. L. 92-28; 85 Stat. 77 of the proposed deletions of the following commodity from Procurement List 1977, November 18, 1976 (41 FR 50975).

Class 7210

Bedspring, 7210-00-559-5085, 7210-00-559-6025.

Comments and views regarding the proposed deletion may be filed with the Committee on or before February 7, 1977. 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 (July 7, 1977).

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-614 Filed 1-6-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

Environmental impact statements received by the Council on Environmental Quality from December 27 through December 30, 1976. 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. (February 21, 1977) 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 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Coordinator of Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Final

Clarkdale-Williams Highway, Coconino, Yavapai Counties, Ariz., December 29: Proposed is the construction of a new highway on National Forest land to extend State Route 279 from its present northern terminus near Clarkdale, Arizona, to a new terminus 23 miles south of Williams, Arizona at the Yavapai/Coconino county line. The highway extension would involve the construction of approximately 21 miles of new highway northwest from Clarkdale and would connect with the 23-mile section of a paved County Road S-211. Seven hundred acres of grazing land would be removed (125 pages). Comments made by: COE, FPC, DOI, DOT and State and local agencies. (ELR Order No. 61797.)

Selway-Bitteroot Wilderness Fire Management, Idaho, Montana, December 27: This statement discusses a proposal to allow some fires in the Selway-Bitterroot Wilderness (SBW) to go unsuppressed so that fire may more nearly play a natural role in shaping, maintaining, and directing ecosystem development in the SBW. The proposal will directly affect Bitterroot, Clearwater, Lolo, and Nez Perce National Forest personnel who have administrative responsibility in the SBW. The potential exists for adverse impacts on airshed and the social system including SBW users, permittees, and adjacent and included landowners (229 pages). Comments made by: HUD and State and local agencies, concerned citizens. (ELR Order No. 61784.)

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, S.W., Washington, D.C. 20314, 202-693-6795.

Draft

Missouri R. Main Stem System, O&M, December 27: Proposed is the continued operation and maintenance of the Missouri River main stem system consisting of six major dams existing for the multipurposes of flood control, irrigation, hydroelectric power generation, navigation, municipal and industrial water supply, fish and wildlife enhancement, and water control. The states which are primarily affected are Montana, North Dakota, South Dakota, Nebraska, Colorado, Wyoming, Kansas, Iowa, Missouri, and Minnesota. (Omaha District) (225 pages). (ELR Order No. 61786.)

Lucky Peak Modification, Boise River, Idaho, December 28: The proposed action is to add hydroelectric power production to the existing Lucky Peak Dam, Idaho. This would involve the construction of a side tunnel from the existing outlet tunnel and the construction of a new powerhouse near the outlet. The powerhouse would contain five generating units having a total rated capacity of 75 megawatts. The project is located on the Boise River approximately 10 miles upstream from Boise. Effects include the possibility of a surge tank requirement which would adversely affect the aesthetics of the area. (Walla Walla District) (30 pages). (ELR Order No. 61791.)

George's R. Maintenance Dredging, Thomaston, Maine, December 27: The proposed action calls for maintenance dredging on George's River along the entire project length, restoring the channel to a depth of 10 feet mean low water, to accommodate present navigational needs. Approximately 11,000 cubic yards of material will be removed by hydraulic dredge. Adverse effects include the killing of immobile and slow moving biota in the immediate area to be dredged. Disturbance of the estuary bottom and suspension of sediments will also result. (New England Division) (30 pages). (ELR Order No. 61782.)

Yakima-Union Gap Flood Damage, Columbia R., Yakima County, Wash., December 27: The proposed project calls for the improvement of 7.3 miles of existing right and left bank levees along the Yakima River, extending from the confluence of the Naches and Yakima Rivers downstream to the Highway 24 Bridge. The project also involves the construction of new levees and flood control structures immediately downstream of the Highway 24 Bridge, including a 2.5 mile left bank levee and a 1.1 mile right bank levee. Effects resulting from construction on 58 acres of land include the elimination of about 17 acres of important wildlife habitat and also wildlife. (Seattle District) (160 pages). (ELR Order No. 61788.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

Norman Sewage Treatment Upgrade, Cleveland County, Okla., December 27: The City of Norman, Oklahoma has received Federal Grant Assistance for the enlargement and upgrading of the existing sewage treatment plant, enlargement of several existing lines that are overloaded, and extension of sewage collection facilities into areas outside the presently urbanized sections of the city. The first two portions of this project have been completed; the third has not. An EPA evaluation has determined that construction of sewage collection systems outside the urbanized sections of the city would be detrimental. The EPA has therefore decided to withdraw the remaining approved construction funds. (Region VI) (139 pages). (ELR Order No. 61789.)

Final

Emission Standards for New Light Duty Trucks, December 29: The EPA is proposing to set more stringent emission standards for new light duty trucks, and to enlarge the current light duty truck class to include trucks up to 500 pounds gross vehicle weight rating (GVWR). The proposed standards which would apply to trucks up to 8500 pounds GVWR are 1.7 grams/mile hydrocarbons, 18 g/m carbon monoxide, and 2.3 g/m oxides of nitrogen. The standards are being proposed for 1978 and later model light duty trucks. (120 pages).

Comments made by: DOD, DOT, ERDA, and State agencies, private companies. (ELR Order No. 61793.)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Mr. Richard H. Brown, Director, Office of Environmental Quality, Room 7258, 451 7th Street, S.W., Washington, D.C. 20410, 202-755-6308.

Draft

Clovis Heights/Cougar Estates No. 10-13 Development, Fresno County, Calif., December 27: Proposed is the ultimate development of a primarily vacant parcel of land into a 135 acre residential subdivision of slightly over 500 dwelling units to be designated "Clovis Heights." The first phase of 35 acres is to contain 136 units. Also proposed is the development of a second primarily vacant parcel into a residential subdivision of slightly over 500 dwelling units in four phases. This development is designated "Cougar Estates No. 10-13; the first phase of 35.4 acres is already being developed into 147 units. Conversion of vacant grazing and farming land to urbanized residential development will result (100 pages). (ELR Order No. 61785.)

Section 104(h)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Draft

Lowndes County Rural Water System Improvements, Lowndes County, Ala., December 27: Proposed is the extension of residential water service to several areas of the unincorporated Lowndes County area. This action will involve three separate projects: (1) Tri-System Improvements (interconnection of the Mosses, Corsby, and Black Belt Water Systems); (2) the Steep Creek Project (extension of water lines to rural residential developments east of Hayneville); and, (3) the Russell School Project (extension of water lines to rural residential developments southeast of Hayneville). Few adverse effects are anticipated (85 pages). (ELR Order No. 61783.)

Santa Cruz Riverpark, Tucson, Ariz., December 27: Proposed is a master plan for the Santa Cruz Riverpark in Tucson, Arizona, to be implemented over a ten to fifteen year period. The Riverpark is located west of Interstate highways I-10 and I-19 between the

north limits of the City of Tucson at Camino del Cerro and the south City limits at Los Reales Road. Five major categories of interest are included in the project: land use, recreation, water management, other resource management, and implementation. Impacts, both beneficial and adverse, are discussed at length (450 pages). (ELR Order No. 61790.)

Final

Lake Alma Project, Georgia (2), Alma-Bacon County, Ga., December 29: The purpose of the proposed project is to construct and develop a 1,400-acre public reservoir principally to provide water-oriented outdoor recreation opportunities in Alma-Bacon County, Georgia and the surrounding area. Adverse effects include erosion and slumping of the banks, sedimentation in the reservoir, and increased noise levels. Elimination and inundation of approximately 1,400 acres of bay and branch swamp habitat would also result (324 pages). Comments made by: AHP, USDA, COE, FPC, and DOI. (ELR Order No. 61792.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

NATIONAL PARK SERVICE

Draft

Tuskegee Institute Management Plan, Macon County, Ala., December 29: Proposed is the implementation of a general management plan for Tuskegee Institute National Historic site in Tuskegee, Alabama. The plan proposes to preserve and interpret this educational resource; protection and preservation of 22 buildings (21 on the historic Tuskegee campus and 1 adjacent to the campus) are involved. A proposal to acquire certain historic properties is also included. No adverse effects are anticipated (45 pages). (ELR Order No. 61796.)

Final

Electric Distribution Line, McKinley Park, Alaska, December 29: The National Park Service proposes to grant a right-of-way to Golden Valley Electric Association, Inc., for an electric distribution line to McKinley Park, Alaska, from its present terminus at Healy Roadhouse. The proposed action is for the purpose of providing commercial electric power to McKinley Park and eventually extending service south to Cantwell and Summit, Alaska. Approximately 3100 cubic yards of soil, parent material, and highway fill will be excavated and permafrost may be affected by vegetation clearing with resultant soil creep. Scenic resources will be adversely affected, and development resulting from commercial electric power will affect air quality (100 pp). Comments made by: AHP, USDA, DOI, DOT, EPA, and State agencies. (ELR Order No. 61798.)

INTERSTATE COMMERCE COMMISSION

Draft

South Bend—Chicago RR Abandonment, Indiana, and Illinois, December 30: Proposed is the granting of authority to the Chicago, South Shore and South Bend Railroad (South Shore) to discontinue its passenger train service between South Bend, Indiana, and Chicago, Illinois, a distance of 88 miles. Authority is also requested to abandon trackage rights over a portion of the Illinois Central Gulf Railroad between Kensington Station and Randolph Street, a distance of approximately 14.2 miles in Chicago. Discontinuance of all passenger train service would cause approximately 6,200 weekday and 3,100 weekend riders to seek other modes of transportation. (ELR Order No. 61800.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Benard Rersche, Director of Division of Reactor Licensing, P-722, NRC, Washington, D.C. 20555, 301-492-7373.

Draft

Bear Creek Project, Rocky Mountain Energy Co., Converse County, Wyo., December 29: The proposed action is the issuance of approvals, permits, and licenses to the Rocky Mountain Energy Company for the implementation of the Bear Creek Project. This project consists of certain mining and milling operations involving uranium ore deposits located in Converse County, Wyoming. Mining of uranium from six known ore bodies will take place over a period of ten years; a mill with a nominal capacity of 1000 tons per day will be constructed and operated as long as ore is available. The waste material will be stored on site in an impoundment (200 pages) (ELR order No. 61795.

DEPARTMENT OF TRANSPORTATION

Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Final

C. D. Lemons Field Runway Construction, Tupelo, Miss., Lee County, December 29: The statement concerns the construction of a new runway and related improvements at the C. D. Lemons Field in Tupelo. The project includes the acquisition of 284 acres of land, the construction of a new runway and air carrier apron, the expansion of the general aviation apron, the construction of an access road, the relocation of Jackson Street, and the installation of an instrument landing system. Adverse impacts of the project include the relocation of approximately 198 persons and increased noise and pollution levels due to larger jet aircraft use of the airport. (200 pages).

Comments made by: EPA, DOI, HUD, USDA, HEW, DOT and state and local agencies. (ELR Order Section 61799.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

U.S. 275-U.S. 81, Norfolk, Madison County, Nebr., December 29: The proposed roadway improvement involves the upgrading and reconstruction of a segment of Norfolk Avenue and 13th Street in Norfolk, Nebraska. The segment of highway under consideration on Norfolk Ave. begins at 15th St. and extends approximately 0.55 miles easterly terminating immediately east of 9th St. The segment of highway on 13th St. begins immediately south of Pasewalk Ave. and extends approximately 1.27 miles northerly to Maple Ave. Improvements consist of widening both streets to four lanes with curb, medians, sidewalks, intersections, and driveways. One business establishment will be relocated. (Region 7) (75 pages). (ELR Order No. section 61787.)

U.S. COAST GUARD

Draft

LORAN-C Transmitting Sta., Northern Minnesota, Koochiching County, Minn. December 29: This project proposes to expand LORAN-C (Long Range Aid to Navigation) coverage to include the Great Lakes in accordance with the July 1974 Annex to the DOT's National Plan for Navigation, dated April, 1972. The Northern Minnesota LORAN-C transmitting station, a secondary station, will be used in conjunction with an existing LORAN-C master station at Dana, Indiana, and a secondary LORAN-C transmitting station in Seneca County, New York. Three sites have been proposed for the N. Minnesota station: International Falls, Manitou, and Baudette. (140 pages). (ELR Order No. 61794.)

DAVID TUNDERMAN,
Acting General Counsel.

[FR Doc.77-603 Filed 1-6-77;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

GENERAL ADVISORY COMMITTEE

Cancellation of Meeting

JANUARY 4, 1977.

Notice is hereby given that the meeting of the GAC's Solar Working Group which was scheduled for January 13, 1977, and published in the FEDERAL REGISTER on December 23, 1976, 41 FR 55930, has been cancelled. The meeting will be rescheduled at a later date, announcement of which will be published in the FEDERAL REGISTER.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.77-737 Filed 1-6-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 650-5]

CALIFORNIA STATE MOTOR VEHICLE

Pollution Control Standards Waiver of Federal Preemption

I. INTRODUCTION

On July 23, 1976, the Environmental Protection Agency (EPA), by notice published in the FEDERAL REGISTER (41 FR 30383), announced a public hearing pursuant to section 209(b) of the Clean Air Act, as amended (hereinafter the "Act") (42 U.S.C. 1857f-6a(b)). That hearing was called to consider a request by the State of California that the Administrator waive application of section 209(a) of the Act with respect to a number of actions taken to revise California's motor vehicle emissions control program. Section 209(b) of the Act requires the Administrator to grant such waiver, after opportunity for a public hearing, unless he finds that the State of California does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions, or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act. State standards and enforcement procedures are deemed not to be consistent with section 202(a) if there is not, or does not appear to be, adequate lead time to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within that time frame.

The California waiver request was by letter dated May 20, 1976. The letter de-

scribed seven actions taken by the California Air Resources Board (CARB), and sought waivers for such of those actions as the Administrator deemed to require a waiver prior to enforcement of the action by California. I determined that the following four items addressed in the letter are within the scope of waivers currently in effect, and therefore no new waiver was required:

(i) Multiplicative methane correction factor for hydrocarbon (HC) emissions, and clarification of the vehicle emission labeling requirement;

(ii) Emission standards for 1978 model year light duty trucks, insofar as these standards are the same as those in effect for the 1977 model year;

(iii) Revision of the assembly line test procedures for 1977 model year gasoline-powered passenger cars and light duty trucks; and

(iv) Emission standards for 1978 model year passenger cars, insofar as these standards are the same as those in effect for the 1977 model year.

These items involve revisions of a minor technical or administrative nature, as well as continuations of the present emission standards for an additional model year. This position was communicated to the CARB by letter dated July 16, 1976.

The public hearing was held in Los Angeles, California, on August 25 and 26, 1976, and the remaining three items of the May 20 letter were considered. The items addressed at the hearing were:

(i) Exhaust emission standards and test procedures for 1978 model year medium duty vehicles;

(ii) Application of the fuel evaporative emission standard and test procedure (SHED test) to 1978 and subsequent model year medium duty vehicles and heavy duty vehicles; and

(iii) Fill pipe and opening specifications for 1977 and subsequent model year gasoline-powered motor vehicles. The record was kept open until September 10, 1976, for the submission of written material, data or arguments by interested persons.

Today's decision will deal solely with the third item above, specifications for fill pipes and openings of motor vehicle fuel tanks. The first two items are still under consideration and a decision will be published as soon as a determination has been made.

I have determined that I cannot make the findings required for denial of the waiver under section 209(b), and therefore I am compelled to grant the requested waiver of Federal preemption for 1977 and subsequent model years. The record of the hearing and the other evidence available to me clearly reveal that compelling and extraordinary conditions exist in the State of California, that the requisite technology is currently available, and that there appears to be adequate lead time to permit manufacturers to comply with the California requirements. California's fill pipe specifications are more stringent than applicable Federal standards, since no Federal standards are currently in effect.

II. Background

On March 24, 1976, the CARB adopted its "Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks" (dated March 19, 1976) for all 1977 and subsequent model year gasoline-powered motor vehicles. The specifications were subsequently amended on August 5, 1976. These specifications place requirements on the construction and orientation of the fill pipe, as well as on the access allowed to the fill pipe by exterior portions of the vehicle such as body sheet metal, bumpers, and license plate frames. The purpose of these specifications is to achieve compatibility between vehicle fuel tank fill pipes and vapor recovery nozzles, so as to permit the recovery of gasoline vapors which are forced out of the fuel tank during the refueling process.

As stated by representatives of the CARB, the specifications basically require that:

(i) The fill pipe be flat, smooth, round in cross section, and less than 5.75 centimeters in diameter, in order to allow a vapor recovery nozzle to seal effectively;

(ii) There be a locking lip inside the fill pipe to allow a vapor recovery nozzle to latch adequately;

(iii) An access zone (i.e., a sufficient void space) be provided to allow the nozzle body and operator's hand to remain clear of vehicle body parts during refueling, so as to prevent binding and jamming of the nozzle; and

(iv) The angle that the nozzle spout makes with the horizontal, while latched to the fill pipe, be at least 15 degrees for 1978 and 1979 model year vehicles, and at least 30 degrees for 1980 and later model year vehicles, so as to prevent defeat of the nozzle's automatic shut-off mechanism (and consequent excess spillage). See Transcript of Public Hearing on California's Request for Waiver of Federal Preemption With Respect to Medium Duty Vehicles, Application of SHED Test Procedure, and Fill Pipe and Opening Specifications, August 25 and 26, 1976, at 316–17 (hereinafter "Tr.").

In their original form, the specifications provided that no new 1977 or later model year gasoline-powered motor vehicle could be sold, offered for sale, or registered in California unless such vehicle was in compliance with the fill pipe construction, orientation, and access requirements. A provision was included whereby a manufacturer could seek a waiver of the requirements for the 1977 model year on the basis of inadequate lead time, and seek an exemption for a subsequent model year on the basis of technological infeasibility. As a means of implementing this provision in an effective manner to deal with the significant lead time and technology problems expressed by various segments of the motor vehicle industry, the Executive Officer of the CARB, pursuant to the authority vested in him, issued a series of executive orders. These executive orders are an integral part of the specifications themselves, and they will be treated as such throughout this decision.

The two executive orders with which we will be concerned are Executive Order G–70–1, dated July 27, 1976, and Executive Order G–70–3, dated August 25, 1976. Executive Order G–70–1 granted a waiver from compliance with the fill pipe specifications to all 1977 model year vehicles. The only requirement placed upon 1977 model year vehicles is that vehicles which use leaded fuel must be capable of being refueled by any nozzle campatible with the fill pipe specifications, and vehicles which require unleaded fuel must be capable of being refueled by a nozzle which conforms to the "Alternate Nozzle Description" attached to the order. Executive Order G–70–1 also includes a provision whereby a manufacturer may seek an exemption from the fill pipe specifications for 1978 or subsequent model year vehicles if compliance is technologically infeasible despite the manufacturer's good faith efforts to develop the technology.

Executive Order G–70–3, dated August 25, 1976, establishes a schedule for achieving full compliance with the fill pipe specifications by the 1982 model year. Executive Order G–70–3 partially supersedes Executive Order G–70–1 for 1978 and subsequent model years. See Tr. at 356. Under the schedule provided in Executive Order G–70–3, full compliance for 1978 through 1981 model year vehicles is made coincident with scheduled changes to the vehicle's bumper or body panel surrounding the access to the fill pipe. As a result individual manufacturers will be required to comply with the fill pipe specifications at different times. More specifically, Executive Order G–70–3 provides that:

(i) Full compliance is required for all 1978 and later model year vehicles which have undergone changes to the relevant bumper or body panel subsequent to the 1977 model year, or which do not require any such changes to achieve compliance with the specifications;

(ii) 1978 and 1979 model year vehicles which require, but are not scheduled for, bumper or body panel changes to achieve compliance must be designed to be refueled by either the nozzle described in the attachment to Executive Order G–70–1 or every nozzle which is compatible with the fill pipe specifications, and there must be a positive fill angle when the nozzle is in the normal resting position; and

(iii) 1980 and 1981 model year vehicles which require, but are not scheduled for, bumper or body panel changes to achieve compliance must be designed to meet all aspects of the fill pipe specifications except that the fill angle may be less than 30 degrees, but not less than 15 degrees.

It should be noted that the exemption for technological infeasibility provided in Paragraph 5 of the fill pipe specifications (and in Executive Order G–70–1) is still available to the manufacturers for 1978 and subsequent model years. That is, a manufacturer may receive an

exemption from the fill pipe specifications even if a change is scheduled to the relevant bumper or body panel, provided that the manufacturer can demonstrate to the CARB that, despite his good faith efforts to develop the technology, it is technologically infeasible to comply with the specifications.

III. Discussion

Technology and Lead Time. Due to the different considerations involved for motorcycles and other gasoline-powered motor vehicles, these two categories will be discussed separately.

With regard to all gasoline-powered motor vehicles except motorcycles, none of the manufacturers at the hearing raised any questions of technological feasibility. No manufacturer stated that technology is not currently available to meet the California specifications. The only significant issue in this area is whether there is adequate lead time within which to implement the required changes to the fill pipe and surrounding vehicle body parts. In considering this question, Executive Orders G–70–1 and G–70–3 are crucial to the waiver decision, since they eliminate what would otherwise be a serious lead time problem. Under Executive Order G–70–1, the only requirement being placed on 1977 model year vehicles is that they be capable of being refueled by specified nozzles. All the statements of the manufacturers on this issue indicated that there should be no problem in complying with this requirement. See Tr. at 312, 340, 367–69, 377.

As described earlier, Executive Order G–70–3 establishes a schedule for phasing 1978 through 1981 model year vehicles into full compliance coincident with scheduled changes to the bumper and body panel surrounding the fill pipe. Once again, none of the manufacturers stated that they could not comply with the requirements of Executive Order G–70–3. In fact, in most cases it is precisely this order which makes compliance with the fill pipe specifications feasible in a reasonable and cost effective manner. See Tr. at 301–03, 363. At the hearing the Ford Motor Company supported granting the requested waiver to California (see Tr. at 298) and stated that they could achieve full compliance with the fill pipe specifications as implemented by Executive Orders G–70–1 and G–70–3. See Tr. at 302–03. The General Motors Corporation similarly stated that they did not oppose the granting of the waiver (see Tr. at 357–58) and could achieve full compliance within the guidelines of the two executive orders. See Tr. at 360–63. The Chrysler Corporation, although disapproving of the entire regulatory mechanism chosen by California in this area of fill pipe specifications (see Tr. at 336–39, 341–43), nevertheless stated that they expected to be in full compliance with the specifications by the 1979 model year without the need for further exemptions under Executive Order G–70–3. See Tr. at 344–45. In written comments dated September 8, 1976, the American Honda Motor Company stated that their automobiles will be able to comply with the California requirements.

Regarding the cost of compliance with the fill pipe specifications, in general compliance does not require the use of new technology or additional materials. The principal costs are one time expenses associated with the modification or procurement of new production tooling. These costs can be minimized by allowing the vehicle manufacturer to bring each model line into compliance at a time when the vehicle is scheduled for other modifications to the bumper or body panel surrounding the fill pipe. Although the purpose of Executive Order G–70–3 was to reduce costs in this manner, some vehicles may nevertheless require modifications out of their normal cycle. The most detailed statements regarding costs were submitted by the Ford Motor Company. Before Executive Order G–70–3 was issued, Ford estimated that compliance would cost $8.9 million in the 1978 through 1980 model years. See Tr. at 296–97. This cost was primarily due to the unscheduled modifications that would be required. Ford also stated that $2.7 million could be saved if California used 1977, rather than 1976, as the base year in the cover letter accompanying Executive Order G–70–1. See id. Executive Order G–70–3 (which basically implemented the cover letter sent by the CARB to the manufacturers to accompany Executive Order G–70–1) did specify that the base year was to be 1977 and so the estimated cost to Ford will be $6.2 million over a period of three years. The General Motors Corporation did not provide any specific cost information, but stated that Executive Order G–70–3 does appear to permit compliance to be achieved in a cost effective manner. See Tr. at 363. The Chrysler Corporation did not supply a precise estimate of the cost of compliance, but expressed the expected cost as "hundreds of thousands" of dollars, responding to a question as to whether the cost would be more than one million dollars. See Tr. at 349.

With regard to the motorcycle industry, the situation concerning technology, lead time and cost is somewhat different. This is primarily due to the manner in which motorcycle fuel tanks are designed and refueled. As opposed to the procedure for other gasoline-powered motor vehicles, motorcycle refueling does not rely on the automatic shut-off mechanism on the fill nozzle. In the first place, most motorcycle fuel tanks straddle the frame of the motorcycle, and have the filler inlet directly over the frame with a very short fill pipe. Therefore, the fill nozzle can generally not be fully inserted and is consequently hand held. Furthermore, even where the nozzle can be fully inserted into the fill pipe, it extends into the tank itself so that the automatic shut-off mechanism would stop the flow of gasoline well before the tank was full, and often before it was even half full. Motorcycle refueling is not designed for unattended operation. The fuel level in the tank is verified visually, and the fill nozzle is gradually withdrawn until the tank is completely filled. See Tr. at 384–85. For these reasons, designing a system which would be effective to recover vapors from motorcycle fuel tanks during refueling presents problems.

The requisite technology for an effective design is not currently available, as was recognized at the hearing by representatives of the CARB. See Tr. at 319, 329. However, the CARB did offer two solutions to the motorcycle problem. These suggestions were to install a telescoping fill pipe on top of the fuel tank, or to relocate the fuel tank under the seat and use a fill pipe arrangement similar to that for automobiles. See Tr. at 317–18. The CARB felt that compliance with the specifications by motorcycles was possible within the framework of Executive Orders G–70–1 and G–70–3, since the effect of these orders would be to provide the lead time necessary for the motorcycle manufacturers to develop and apply the required technology. See Tr. at 319, 328–30. The CARB stated that the provisions of Executive Order G–70–3 are applicable to motorcycles. See Tr. at 323. The CARB further stated that they were not aware of any plans of the motorcycle manufacturers to change the designs of the fuel tanks prior to 1982, and therefore motorcycles would not have to make any changes to comply with the fill pipe specifications until the 1980 model year. See Tr. at 328–29.

In responding to the statements of the CARB, the Motorcycle Industry Council indicated that changes to motorcycle fuel tanks were expected to be implemented prior to the 1980 model year to accommodate new designs or safety considerations. See Tr. at 388, 395. The Council felt that the effect of Executive Order G–70–3 would be to prevent such changes and to freeze motorcycle fuel tank designs, since any change to the fuel tank in 1978 or 1979 would require full compliance with the fill pipe specifications. See Tr. at 388, 395–96.[1]

Concerning CARB's suggested solution of relocating the fuel tank under the seat, the Motorcycle Industry Council stated that this approach would require complete redesign of frame, engine and transmission configurations, a major design effort which would cost the motorcycle industry hundreds of millions of dollars. See Tr. at 388–89. Specific cost information for such an alternative was provided by the Yamaha International Corporation in a supplementary statement dated September 7, 1976. Yamaha estimated that it would take from twelve to

[1] What was not realized by the Council, though, was that the exemption for technological infeasibility provided in Executive Order G–70–1 and Paragraph 5 of the specifications is still available to a motorcycle manufacturer even if a change is made to the fuel tank. Of course, if this exemption were sought, the manufacturer would have to demonstrate to the CARB that compliance was technologically infeasible despite good faith efforts to overcome any problems.

fifteen years to redesign their entire model line, at a total cost of $67 million. In the written statement of the American Honda Motor Company, dated September 8, 1976, it was stated that such redesign of the motorcycle was not even possible for some models.

Both Honda and Yamah also commented on the CARB suggestion of a telescoping fill pipe. In a second supplementary statement dated September 7, 1976, Yamaha noted that such a design has not yet been developed, and said that there are serious safety considerations which must be examined. Honda commented that a considerable amount of time would be required to consider this alternative in the context of safety and design compatibility. Although not specifically mentioned by any of the manufacturers, one of the safety problems with this alternative would appear to be the possibility of spillage. With the fill pipe in its fully extended (telescoped) position, it would be possible for this extended portion itself to fill up with gasoline due to nozzle after-flow upon shut-off. When the fill pipe is then compressed into its closed position this fuel would be spilled, causing a potential safety hazard as well as creating a source of hydrocarbon emissions.

The only specific lead time information for motorcycles was provided by Yamaha. Yamaha stated that regardless of the approach taken, they do not believe that it is technologically feasible to comply with the fill pipe specifications before 1980. See Tr. at 401. They further stated that they were not aware that compliance would be possible even after 1980. See Tr. at 401–02.

The entire discussion of technology and lead time up to this point has been concerned with the technology necessary to achieve an "effective" design for moto cycle fill pipes. Effective technology means technology that is both likely to be used in the field by motorcycle owners and filling station attendants, and also will accomplish the purpose of permitting the recovery of gasoline vapors during the refueling process while allowing the motorcycle fuel tank to be completely filled. These considerations, however, are outside my permissible scope of inquiry in a California waiver situation. In keeping with the Congressional intent behind section 209(b) of the Act as stated in the previous motorcycle waiver decision (41 FR 44209, 44210, October 7, 1976), my determinations regarding the availability of the requisite technology do not extend into evaluating the effectiveness of any available technology. I therefore cannot deny a waiver request if technology is available to achieve compliance with the California requirements, regardless of whether this technology may be of questionable effectiveness.

There is technology currently available to the motorcycle industry which would permit motorcycles to comply with the California fill pipe specifications as early as the 1978 model year. This technology involves simply relocating the fuel tank opening off center so that the fill nozzle can be fully inserted into the tank without striking the center hump in the fuel tank. The only other modification which may be required would be to place a positioning bracket inside the filler inlet to retain the nozzle spout within the required orientation. The technology required to implement these changes is currently available, and in fact some motorcycles already have an off center filler inlet. This option of relocating the fuel tank opening was not given much discussion at the hearing (see Tr. at 401), most likely due to the fact that this is not generally considered a desirable option. Although this design would allow the fill nozzle to be fully inserted and sealed, the spout would extend at least three inches into the fuel tank. In this position the nozzle's automatic shut-off mechanism would stop the flow of gasoline well before the tank was full. Therefore in order to completely fill the tank, the nozzle would have to be unsealed and withdrawn so as to allow the continued flow of gasoline. In addition, since the automatic shut-off would occur very quickly (after dispensing one to three gallons of fuel), it is not likely that the operator would fully insert and seal the nozzle in the first place. Nevertheless, this option of relocating the fuel tank opening does appear to comply with the California fill pipe and opening specifications, and nothing prohibits a manufacturer from implementing this approach. Of all the suggested solutions for motorcycles, relocating the fuel tank opening is technologically the easiest and least expensive method.

It should also be noted that if a motorcycle manufacturer does not plan to make any changes to the fuel tank prior to the 1980 model year, under Executive Order G–70–3 the manufacturer will not have to comply with the fill pipe specifications. Furthermore, even if changes to the fuel tank are planned prior to the 1980 model year, a motorcycle manufacturer may apply to the CARB for an exemption from the fill pipe specifications.

Based upon all the information available to me, I cannot conclude that with respect to motorcycles the technology required to achieve compliance with the California fill pipe specifications cannot be developed and applied by the 1978 model year.

Objections to granting the waiver. Representatives of the Chrysler Corporation objected to the entire regulatory approach taken by the CARB in the area of fill pipe specifications. See Tr. at 336–39, 341–43. Specifically, Chrysler felt that that provisions for exemptions and waivers specified in Executive Orders G–70–1 and G–70–3 did not permit any realistic determination of available lead time to be made by the Administrator, as is required for consistency with section 202(a) of the Act. Chrysler took the position that a determination as to lead time must be made on an industry-wide basis, as opposed to individual manufacturers seeking exemptions for various model years from the CARB if certain criteria are met.

Additional questions were raised at the public hearing concerning whether, in granting this waiver, the Administrator would effectively be improperly transferring to the Executive Officer of the CARB the responsibility to determine whether adequate lead time exists. See Tr. at 301, 325–27, 361. On the other side, however, both Ford and General Motors stated that the executive orders represented a reasonable, flexible, and cost effective way of implementing the fill pipe specifications. See Tr. at 301–02, 362–63. As noted earlier, these executive orders solve what would otherwise be serious lead time problems.

After careful consideration of this issue, I find that I cannot agree with Chrysler's position. The implementation of the fill pipe specifications through the executive orders does not prevent me from making the required determination regarding lead time. The criteria for an exemption under Executive Order G–70–3, which relates compliance to required scheduled changes to the bumper and body panel surrounding the fill pipe, are sufficiently definite such that reasonable decisions regarding available lead time can be made for each manufacturer. See Tr. at 301–03, 343, 361–63. The unambiguous nature of these criteria prevents excessive discretion from being given to the Executive Officer of the CARB. Executive Order G–70–3 represents a sensible mechanism for achieving full compliance with the fill pipe specifications at the earliest possible date, while at the same time recognizing the realities of the motor vehicle production process and giving consideration to the economic factors involved. This executive order minimizes the impact that compliance with the specifications will have on motor vehicle manufacturers.

Various objections to this waiver request on behalf of the motorcycle industry were raised by the Motorcycle Industry Council and the Yamaha International Corporation, who contended that motorcycles should be excluded as a class from compliance with the fill pipe specifications. The Motorcycle Industry Council discussed the reasons why motorcycle fuel tanks were unsuited to developing any effective method for recovering gasoline vapors during refueling. See Tr. at 380–89. Yamaha presented data which demonstrated the extremely small contribution to air pollution caused by hydrocarbon vapors escaping from motorcycle fuel tanks during refueling, and discussed the cost effectiveness of compliance with the fill pipe specifications. See Tr. at 397–402. However, I have concluded that I cannot deny the requested waiver with respect to motorcycles on these grounds. As explained in detail in the previous waiver decision concerning motorcycle exhaust emission standards, 41 FR 44209 (October 7, 1976), arguments concerning the wisdom of California's actions, the cost effectiveness of compliance with the fill pipe specifica-

tions and the degree of improvements in air quality that will result, are all outside my permissible scope of inquiry. These matters are questions of public policy, which are left to California's judgment. As discussed earlier, questions concerning the effectiveness of the available technology are also within this category.

Deferment of Federal Standards. In the past year EPA has done preliminary work on developing Federal standards for fill pipes and openings. EPA has informally advised the affected industry that such Federal standards would not be issued if California adopted standards adequate for Federal purposes and if the industry utilized designs on a nationwide basis that comply with such standards.

On the assumption that the California specifications subject to this waiver are utilized by the manufacturers of gasoline-fueled light duty vehicles and light duty trucks on the same schedule as has been required in the State of California, EPA will indefinitely defer the issuance of Federal standards for these vehicles' fill pipes and openings. Should the nationwide compliance of these manufacturers obviate the need for the promulgation of Federal standards, such rulemaking will be foregone completely. EPA will monitor plans for utilization of filler-inlet designs on non-California vehicles and determine at some future date whether Federal action on this matter is necessary.

Findings. Having given due consideration to the record of the public hearing, all material submitted for that record, and other relevant information, I hereby make the following findings.

1. The State of California had, prior to March 30, 1966, adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles.

2. The California fill pipe and opening specifications for 1977 and subsequent model year gasoline-powered motor vehicles are more stringent than applicable Federal standards, since no Federal standards are currently in effect.

3. Compelling and extraordinary condition continue to exist in the State of California. The State oxidant pollution problem remains the worst in the nation. The testimony of the representatives of the CARB revealed that unless a virtual shutdown of Los Angeles is assumed, no current projections indicate that compliance with the ambient air quality standards can be achieved for California's South Coast Air Basin, a region which contains five percent of the nation's population.

4. With respect to all 1977 and subsequent model year gasoline-powered motor vehicles, I cannot find that the California fill pipe and opening specifications, and accompanying enforcement procedures, are not consistent with section 202(a) of the Clean Air Act. Taking into account the cost of compliance, I find that the requisite technology is currently available and that there appears to be adequate lead time to permit the application of this technology so as to achieve compliance with the California requirements as implemented by Executive Orders G–70–1 and G–70–3.

IV. Decision

Based upon the above discussion and findings, I hereby waive application of section 209(a) of the Act to the State of California with respect to section 2290 of Title 13, California Administrative Code, and "Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks," dated March 19, 1976, as amended August 5, 1976, as implemented by Executive Order G–70–1, dated July 27, 1976, and Executive Order G–70–3, dated August 25, 1976, for all 1977 and subsequent model year gasoline-powered motor vehicles.

A copy of the above standards and procedures, as well as the record of the hearing and those documents used in arriving at this decision, is available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, Sacramento, California 95814.

Dated: December 30, 1976.

Russell E. Train,
Administrator.

[FR Doc.77-655 Filed 1-6-77;8:45 am]

[FRL 668-4]

EMISSION STANDARDS FOR NEW LIGHT DUTY TRUCKS

Availability of Final Environmental Impact Statement

Pursuant to the EPA procedures for the Voluntary Preparation of Environmental Impact Statements (39 FR 37419), the Environmental Protection Agency has prepared a final environmental impact statement (FEIS) for the Emission Standards for New Light Duty Trucks.

The EPA has set more stringent emission standards for new light duty trucks, and has enlarged the current light duty truck class to include trucks up to 8500 pounds gross vehicle weight rating (GVWR). The emission standards which apply to trucks up to 8500 pounds GVWR are 1.7 grams/mile (g/m) hydrocarbons, 18 g/m carbon monoxide and 2.3 g/m oxides of nitrogen. The EPA has set these standards for 1979 and later model year light duty trucks.

This FEIS was transmitted to the Council on Environmental Quality (CEQ) on December 29, 1976. These standards become effective February 11, 1977 (see 41 FR 56316).

Copies of the FEIS are available for review and comment from: Public Information Center (PM-215), U.S. Environmental Protection Agency, Washington, DC 20460 (telephone: 202–755–0707).

Copies of the FEIS are available for public inspection at the following location:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW, Washington, DC 20460.

Information copies of the FEIS are available at cost (10 cents/page) from the Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036. Please reference ELR No. 61793.

Copies of the FEIS have been sent to various Federal, State, and local agencies as well as interested individuals who made substantive comments on the draft EIS as outlined in the CEQ guidelines or who requested a copy of the FEIS.

Dated: January 4, 1977.

Rebecca W. Hammer,
Director,
Office of Federal Activities.

[FR Doc.77-653 Filed 1-6-77;8:45 am]

[FRL 668-5]

WASTEWATER TREATMENT FACILITIES, NORMAN, OKLAHOMA

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the Wastewater Treatment Facilities, Norman, Oklahoma.

The City of Norman, Cleveland County, Oklahoma has received Federal Grant Assistance for the enlargement and upgrading of the existing sewage treatment plant, enlargement of several existing lines that are overloaded and extension of sewage collection facilities into areas outside the presently urbanized sections of the city. All of the facilities have been completed with the exception of that portion of the grant which would extend service outside the urbanized area and would replace five oxidation ponds and two lift stations.

The DEIS was transmitted to the Council on Environmental Quality (CEQ) on December 27, 1976. In accordance with CEQ's notice of availability, comments are due on February 21, 1977. Copies of the DEIS are available for review and comment from:

Mr. Clinton Spotts, Regional EIS Coordinator, Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270 (telephone: 214 749–1236).

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region VI Library, 28th Floor, First International Building, 1201 Elm Street, Dallas, Texas 75270.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW, Washington, DC 20460.

Information copies of the DEIS are available at cost (10 cents/page) from

the Environmental Law Institute, 1346 Connecticut Avenue, NW., Washington, D.C. 20036. Please reference ELR No. 61789.

Copies of the DEIS have been sent to various Federal, State and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: January 4, 1977.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.77-654 Filed 1-6-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Iowa Public Service Company's Maynard Generating Station Powerplant 14; Negative Determination of Environmental Impact

Pursuant to 10 CFR 208.4 and 305.9, the FEA hereby gives notice that it has performed an analysis and review of the environmental impact of the proposed issuance of a Notice of Effectiveness for the prohibition order to Iowa Public Service Company's Maynard Generating Station, Powerplant 14.

On June 30, 1975, the FEA issued a prohibition order to the above-listed powerplant which prohibited the powerplant from burning natural gas or petroleum products as its primary energy source. The prohibition order provided, however, that in accordance with the requirements of 10 CFR Parts 303 and 305, the order would not become effective until either, (1) The Administrator of the Environmental Protection Agency (EPA) notifies the FEA, in accordance with section 119(d)(1)(B) of the Clean Air Act, that a particular powerplant will be able on and after July 1, 1975, to burn coal and to comply with all applicable air pollution requirements without a compliance date extension under section 119, or (2) if no notification is given by EPA, the date that the Administrator of EPA certifies pursuant to section 119(d)(1)(B) of the Clean Air Act is the earliest date that a particular powerplant will be able to comply with all applicable air pollution requirements under section 119 of that Act; and, until FEA has performed an analysis of the environmental impact of the issuance of a Notice of Effectiveness, pursuant to 10 CFR 305.9, and has served the powerplant the Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7(b).

The FEA has analyzed and reviewed the effect on the human environment of issuance of the Notice of Effectiveness, and has determined it is clear that issuance of a Notice of Effectiveness for the prohibition order to the above listed powerplant is not a "major Federal action significantly affecting the quality of the human environment." National Environmental Policy Act at 42 U.S.C. 4332 (2)(C). Therefore pursuant to 10 CFR 208.4(c) FEA has determined that an environmental impact statement is not required.

Additional copies of this negative determination of environmental impact and copies of the environmental assessment upon which it is based are available upon request from the FEA Office of Communications and Public Affairs, Room 2140, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Copies of the documents are also available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue, N.W., Washington, D.C.

Interested persons are invited to submit data, views, or arguments with respect to the negative determination and the associated environmental assessment to Executive Communications, Box, KA, Room 3309, Federal Energy Administration, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Negative Determination—Proposed NOE to Iowa Public Service Company's Maynard Generating Station, Powerplant 14." Fifteen copies should be submitted on or before January 27, 1977.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., December 29, 1976.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-620 Filed 1-4-77;3:48 pm]

RATE DESIGN INITIATIVES SUBCOMMITTEE OF THE STATE REGULATORY ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat 770), notice is hereby given that the Rate Design Initiatives Subcommittee of the State Regulatory Advisory Committee will meet Monday, January 31, 1977, at 9:30 a.m., Room 3000A, FEA Headquarters Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C.

The objectives of this Subcommittee are to advise FEA on its preparation and analysis of electric utility rate design proposals which are to be submitted to the Congress pursuant to Title II, Section 203, Pub. L. 94-385, Energy Conservation and Production Act.

The agenda for the meeting is as follows:

1. FEA presentation of status report on preparation of the February 14 submittal to Congress and the Quantitative modeling contract.
2. Subcommittee discussion—current efforts, future needs.
3. Comments from the general public.

The meeting is open to the public. The Chairman of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Lois Weeks, Director, Advisory Committee Management, (202) 566-7022, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

Minutes of the meeting will be made available for public inspection and copying in the FEA Freedom of Information Office, Room 2107, FEA Headquarters, 12th & Pennsylvania Avenue, N.W., Washington, D.C.

Issued at Washington, D.C. on January 4, 1977.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.77-621 Filed 1-4-77;3:49 pm]

FEDERAL MARITIME COMMISSION

SECURITY FOR THE PROTECTION OF THE PUBLIC

Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provision of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Aegean Cruises, S.A., c/o Epirotiki Lines, Inc., 608 Fifth Avenue, New York, New York 10020.

Dated January 4, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-623 Filed 1-6-77;8:45 am]

SECURITY FOR THE PROTECTION OF THE PUBLIC

Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate [Performance]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 9-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Aegean Cruises, S.A., c/o Epirotiki Lines, Inc., 608 Fifth Avenue, New York, New York 10020.

Dated: January 4, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-624 Filed 1-6-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. G–17014, et al]

CIMARRON TRANSMISSION COMPANY, ET AL

Filing of Pipeline Refund Reports and Refund Plans

DECEMBER 29, 1976.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket numbers, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be submitted to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 14, 1977. Copies of the respective filings are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

Appendix

Company	Date of filing	Type of filing	Docket No.
Cimarron Transmission Co	June 7, 1976	Report	G–17014.
Consolidated Gas Supply Corp	Nov. 22, 1976	Plan	RP72–157.
Do	May 19, 1976	do	RP72–157.
Mid-Louisiana Gas Co	Nov. 26, 1976	Plan (revised)	A R67–1.
Northwest Pipeline Corp	Dec. 8, 1976	Plan	RP74–66.
Southern Natural Gas Co	Aug. 2, 1976	do	A R67–1, et al.
South Texas Natural Gas Gathering Co	Oct. 4, 1976	do	A R64–2, et al.
Texas Eastern Transmission Corp	Nov. 29, 1976	Report	RP70–29, et al.
Do	July 29, 1976	Plan	A R64–2, et al., A R67–1, et al.
Texas Gas Transmission Corp	Nov. 15, 1976	Report	RP76–17.
Transcontinental Gas Pipe Line Corp	Aug. 3, 1976	Plan	RP73–3.
Columbia Gas Transmission Corp	Nov. 10, 1976	Report	RP73–65.

[FR Doc.77–495 Filed 1–6–77;8:45 am]

[Docket No. CI77–149]

GULF OIL CORP.

Application for Abandonment Authorization [1]

DECEMBER 30, 1976.

Take Notice that the Applicant listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendment whch are on file with the Commission and open to public inspection.

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 January 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time herein, if the Commission on its own review of the matter finds that an abandonment 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.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
C177-149..... (G-6813) B 12-12-76	Gulf Oil Corp., P.O. Box 3725, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., Cameron Field, Cameron Parish, La.	(1)	.....

[1] Gulf to terminate deliveries to MichWis and to commence deliveries of this supply of gas to Texas Eastern Transmission Corp., under Gulf's rate schedule No. 278. Gulf states that its contract dated Nov. 6, 1953, was for a period from June 1, 1953, to June 1, 1976, at which time the contract terminated by its own terms.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

[FR Doc.77-494 Filed 1-6-77;8:45 am]

[Docket No. CS71-1134, et al]

REX MONAHAN, ET AL

Applications for "Small Producer" Certificates[1]

DECEMBER 30, 1976.

Take notice that each of the Applicants listed herein has failed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 17, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date Filed	Applicant
CS71-1134.. (G-5077).	Nov. 26, 1976	Rex Monahan, Room 12 I. & M. Bldg., Sterling, Colo.
CS75-479..	Oct. 26, 1976	Texas Oil & Gas Corp., et al., 730 15th St., NW., Washington, D.C. 20005.
CS76-233.. (CS72-1026).	Dec. 2, 1976	Barber Oil Exploration, Inc., One Shell Plaza, Houston, Tex. 77002.
CS76-889..	Dec. 6, 1976	J. K. Fortner and William A. Snyder, d/b/a Kenbill Oil Co., 3701 22d St., Great Bend, Kans. 67530.
CS77-164..	Dec. 8, 1976	Jar Timber Corp., 3535 Lemmon Ave., Suite 303, Dallas, Tex. 75219.
CS77-165.....	do.....	James R. Sowell, 3535 Lemmon Ave., Suite 303, Dallas, Tex. 75219.
CS77-166..	Dec. 9, 1976	A. S. Edgerton, 50 California St., San Francisco, Calif. 94111.
CS77-167.....	do.....	Susan H. Smith, 2568 East Shore Place, Reno, Nev. 89509.
CS77-168..	Dec. 10, 1976	McCloskey Gas Co., 76 Liberty Lane, Huntington, W. Va. 25705.
CS77-169.....	do.....	Robinson Gas Co., et al., 76 Liberty Lane, Huntington, W. Va. 25705.
CS77-170.....	do.....	Pinnacle Co., 940 Esperson Bldg., Houston, Tex. 77002.
CS77-171.....	do.....	John Loeb, 42 Wall St., New York, N.Y. 10005.
CS77-172.....	do.....	ENI Exploration Program—1975, 1401 Bank of California Center, Seattle, Wash. 98164.
CS77-173.....	do.....	Century Oil & Gas Co., P.O. Box 94010, Oklahoma City, Okla.
CS77-174..	Dec. 13, 1976	Royal Resources Exploration, Inc., 1660 South Albion St., Suite 505, Denver, Colo. 80222.
CS77-175.....	do.....	James W. Hines, Jr., 36 Linda Isle, Newport Beach, Calif. 92660.
CS77-176.....	do.....	John W. Ramsey, P.O. Box 173, Carter, Okla. 73627.
CS77-177.....	do.....	Thomas H. Cleavenger, 112 South Michigan Ave., Chicago, Ill. 60603.
CS77-178.....	do.....	Rose Long McFarland, 1014 Mid-South Towers, Shreveport, La. 71101.
CS77-180.....	do.....	Albert S. Keston, c/o Aaron Shapiro, 1180 6th Ave., New York City, N.Y. 10036.

[1] This application is being renoticed to reflect that Texas Oil & Gas Corp., et al., acquired all of the outstanding common stock of Western Transmission Corp., a class C interstate pipeline company. Applicant requests a waiver of the Commission's regulations, sec. 157.40(a)(i), insofar as they might exclude from small producer status a producer that is affiliated with a jurisdictional pipeline company.

[2] Being renoticed to reflect that the sales which were being made on Nov. 11, 1976, under MACPET's (McKnight Petroleum Trust) small producer certificate issued in docket No. CS72-1026, are henceforth made by Barber Oil Exploration, Inc., under a small producer certificate issued in docket No. CS76-233.

[FR Doc.77-493 Filed 1-6-77;8:45 am]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Domestic Policy Directive of November 16, 1976

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on November 16, 1976.[1]

The information reviewed at this meeting suggests that growth in real output of goods and services in the fourth quarter may be falling somewhat below the third-quarter rate. In October retail sales increased little following a decrease in September. Industrial production and employment in manufacturing declined, in part because of strikes. After adjustment for strikes, total payroll employment in manufacturing establishments rose somewhat further. According to household survey data, the unemployment rate edged up from 7.8 to 7.9 per cent. The wholesale price index for all commodities rose less rapidly in October than in September as average prices of farm products and foods declined; however, average prices of industrial commodities rose sharply further. The advance in the index of average wage rates over recent months has remained somewhat below the rapid rate of increase during 1975.

The average value of the dollar against leading foreign currencies has remained steady in recent weeks, declining slightly against the German mark and associated European currencies but rising against the pound sterling and the lira. In September the U.S. foreign trade deficit widened again, and the third-quarter deficit was about double the average of the first two quarters of 1976.

M_1, which was about unchanged in September, expanded sharply in October. Growth in M_2 and M_3 accelerated as inflows of the time and savings deposits included in these broader aggregates continued exceptionally strong. Interest rates have fluctuated in a narrow range in recent weeks.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions that will encourage continued economic expansion, while resisting inflationary pressures and contributing to a sustainable pattern of international transactions.

To implement this policy, while taking account of developments in domestic and international financial markets, the Committee seeks to achieve bank reserve and money market conditions consistent with moderate growth in monetary aggregates over the period ahead.

By order of the Federal Open Market Committee, December 29, 1976.

MURRAY ALTMANN,
Deputy Secretary.

[FR Doc.77-607 Filed 1-6-77;8:45 am]

BANCO UNION, C.A.; CONSORCIO FINANCIERO UNION, S.A. AND UNION INTERNATIONAL CORP.

Order Approving Formation of Bank Holding Companies

Banco Union, C.A., Caracas, Venezuela ("Banco Union"); Consorcio Financiero

[1] The Record of Policy Actions of the Committee for the meeting of November 16, 1976, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Union, S.A., Caracas, Venezuela ("Consorcio Financiero"); and Union International Corporation, Wilmington, Delaware ("Union International") have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of bank holding companies through acquisition directly or indirectly of all of the voting shares (less directors' qualifying shares) of Union Chelsea National Bank, New York, New York ("Bank"). Bank, a new bank recently chartered by the Comptroller of the Currency, proposes to purchase assets and assume liabilities of Chelsea National Bank, New York, New York ("Chelsea Bank").[1] Bank would be the successor to Chelsea Bank and, accordingly, the proposed acquisition of voting shares of Bank is treated herein as the proposed acquisition of the voting shares of Chelsea Bank. Union International proposes to acquire all of the voting shares of Bank. Banco Union would own 10 per cent of the shares of Union International; however, as a result of a voting agreement entered into with Consorcio, it would have the power to vote an additional 15 per cent of the shares of Union International.[2] Consorcio Financiero would own 90 per cent of the shares of Union International,[3] but as a result of the voting agreement would have the power to vote only 75 per cent of Union International shares.

Notice of the applications has been given to the Comptroller of the Currency in accordance with section 3(b) of the Act. The Comptroller has recommended approval of the applications. Published notice of the applications has been dispensed with because of the emergency situation that exists. Such notice is not required by the Act. The Board has considered the applications and the comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Banco Union, a Venezuelan commercial bank with total assets of approximately $1.1 billion and total deposits of approximately $1 billion, is the second largest commercial bank in Venezuela. Banco Union has 82 offices located throughout Venezuela and has two overseas offices, including an agency in New York City. Consorcio Financiero is a holding company with substantially the same shareholders as Banco Union and was formed to hold interests in mortgage banking and other companies formerly held by Banco Union. Consorcio Financiero has total assets of approximately $12.7 million. Union International is a United States company that has been formed for the purpose of holding the shares of Bank. Upon acquisition of Bank (deposits of approximately $28 million), Applicants would control .02 per cent of deposits in commercial banks in the State of New York.[4]

Chelsea Bank, whose assets and liabilities are to be acquired by Bank, is the 78th largest of 122 banking organizations in the relevant market.[5] Because of the nature of the business conducted at Banco Union's New York agency and the large number of intervening banks, it does not appear that any meaningful competition would be eliminated as a result of the proposal. On the other hand, consummation of the proposals should have a salutary effect on competition by restoring Chelsea Bank to a condition whereby it will be able to compete with other banking organizations in the market. On the basis of the record, the Board concludes that consummation of the proposals would not have a significant adverse effect on existing or potential competition in any relevant area and that competitive considerations are consistent with approval of the applications.

The financial and managerial resources and future prospects of Banco Union are regarded as generally satisfactory. Similar considerations with respect to Consorcio Financiero and Union International appear to be consistent with approval of the subject applications. Bank's financial resources and future prospects, absent consummation of the instant proposals, are unsatisfactory and additional funds are needed in order for Bank to be able to continue its operations. In this connection, Banco Union has agreed to directly or indirectly inject $6 million of additional capital into Bank. In addition, Banco Union will make a $6 million line of credit available to Union International to enable Union International to make such additional capital investments in Bank as may be necessary. Thus, banking factors lend weight toward approval of the applications. Although there will be no immediate change or increase in the services offered by Bank, consummation of the proposed transactions would preserve Bank as an alternative source of banking services. Thus, convenience and needs considerations lend significant weight toward approval of the applications. Accordingly, it is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the applications should be approved.

Pursuant to section 4(a)(2) of the Act, Applicants would have two years from the date on which they become bank holding companies in which to divest direct or indirect ownership or control of any companies engaged in impermissible nonbanking activities. Under section 4(c)(9) of the Act and section 225.4(g) of Regulation Y [12 CFR 225.4(g)] issued pursuant thereto, a "foreign bank holding company," as defined in the regulation,[6] is eligible for certain exemptions from the nonbanking prohibitions of the Act. Specifically, a foreign bank holding company may, without the Board's prior specific consent, retain and acquire shares of any company that is not engaged, directly or indirectly, in any activities in the United States except as shall be incidental to the international or foreign business of such company. It appears that Banco Union would qualify as a foreign bank holding company upon consummation of the proposed transactions. Based on the available information, however, it does not appear that Consorcio Financiero, as persently constituted, would qualify as a foreign bank holding company. Unless Consorcio Financiero can demonstrate to the Board that it is a "foreign bank holding company," and thus qualifies for the exemption of section 4(c)(9), it must, within two years of the date on which it becomes a bank holding company, either reduce its investments in foreign companies to less than 5 percent[7] or apply to the Board to retain its foreign investments pursuant to section 4(c)(13) of the Act.[8]

While Banco Union and Consorcio Financiero are primarily engaged in activities outside the United States, Banco Union presently owns 39 percent, and Consorcio Financiero owns 45 percent, of the voting shares of Administradora

[1] The Comptroller has declared that an emergency exists with respect to the condition of Chelsea Bank and, acting pursuant to 12 U.S.C. section 181, waived the requirement that the owners of two-thirds of Chelsea Bank's stock vote to approve the transaction.

[2] Banco Union has undertaken to apply to the proper Venezuelan authorities for permission to acquire all of the shares of Union International.

[3] Both Banco Union and Consorcio Financiero have agreed to maintain the voting agreement regarding 15 per cent of the shares of Union International, until the Board consents to termination of the arrangement.

[4] All banking data are as of December 31, 1975, unless otherwise indicated.

[5] The metropolitan New York market, the relevant geographic market for purposes of analyzing the competitive effects of the subject proposal, is defined to include the five boroughs of New York City, Nassau County, Westchester County, Putnam County, Rockland County, and western Suffolk County in New York, as well as the northern two-thirds of Bergen County and eastern Hudson County in New Jersey, plus southwestern Fairfield County in Connecticut. Chelsea Bank's rank in the market is as of June 30, 1975.

[6] Section 225.4(g)(1)(iii) defines "foreign bank holding company" as a bank holding company "organized under the laws of a foreign country, more than half of whose consolidated assets are located, or consolidated revenues derived, outside the United States."

[7] Pursuant to section 4(c)(6) of the Act a bank holding company may hold up to 5 per cent of the outstanding voting shares of nonbanking companies.

[8] Bank holding companies that do not qualify as foreign bank holding companies under § 225.4(g) of Regulation Y must apply to retain or acquire shares of foreign companies under § 225.4(f) of Regulation Y implementing § 4(c)(13) of the Act. In general, under § 225.4(f) of Regulation Y, domestic bank holding companies are limited to owning and controlling shares of foreign companies that are engaged in international or foreign banking and other foreign or international financial operations. In contrast, under § 4(c)(9), a foreign bank holding company can own and control shares of any foreign company, regardless of the activities the company is engaged in, so long as it is only engaged in incidental activities in the United States.

Union, a Venezuelan company which indirectly engages in real estate management activities in the United States through its wholly-owned subsidiary Administradora Union Management Corp., Coral Gables, Florida ("Management Company"). It does not appear that any of the exemptive provisions of section 4 of the Act, including section 4(c)(9), are applicable to Applicants' indirect investments in Management Company. In accordance with section 4(a)(2) of the Act, Banco Union and Consorcio Financiero have agreed to, within two years from the date on which they become bank holding companies, either divest their ownership of shares of Management Company or Management Company will cease its United States activities.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[*] effective December 31, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-604 Filed 1-6-77;8:45 am]

FIRST MARYLAND BANCORP

Order Approving Acquisition of Bank

First Maryland Bancorp, Baltimore, Maryland ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 51 percent of the voting shares of The Hancock Bank, Hancock, Maryland ("Bank"). Subsequent to consummation of the proposed transaction, Applicant intends to merge Bank into Applicant's sole subsidiary bank, in the event the Comptroller of the Currency approves an appropriate application under the Bank Merger Act (12 U.S.C. 1828(c)).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of Mr. Donald Wolpe, a former stockholder of Bank ("Protestant"), and the Department of Licensing and Regulation of the State of Maryland (which recommended approval of the application), in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the third largest banking organization in Maryland, controls deposits of approximately $932 million, representing 10.7 percent of total deposits in commercial banks in the state.[1] Acquisition of Bank (deposits of $9.5 million) by Applicant would increase Applicant's share of deposits in the state by 0.1 percent and would not alter Applicant's rank among other banking organizations in the State of Maryland.

Bank's sole office is located in Hancock, Maryland. Hancock is located in Washington County, Maryland, and is only one-half mile north of the West Virginia-Maryland border and one mile south of the Pennsylvania-Maryland border. Protestant contends that the relevant geographic market in which to assess the competitive effects of the proposed acquisition is approximated by Washington County, Maryland. Washington County includes Hagerstown, where six branches of Applicant's only subsidiary bank, The First National Bank of Maryland, Baltimore, Maryland, are located. To support his contention that Hagerstown and the city of Hancock, where Bank is located, are in the same market, Protestant asserts that the two are approximately 25 miles apart and are connected by several roads including a four lane interstate highway. These roads are the only route from eastern Maryland to its four western counties. Protestant characterizes Hancock as a suburb of Hagerstown, and asserts that approximately 10 percent of its workers are employed in Hagerstown. Further, he notes that a large shopping center is located near the Hagerstown exist on the above-mentioned interstate highway and that Hancock residents visit the shopping center and travel to Hagerstown to shop or for entertainment. Finally, noting that standard metropolitan statistical areas ("SMSAs") are often used as the basis for analysis of geographic markets, Protestant states that a publication widely used by advertising and marketing managers treats Washington County as a potential SMSA. According to this source, 80 percent of the metropolitan areas that it has deemed potential SMSAs in the past eventually have been officially designated SMSAs.

In light of Protestant's assertions, the Federal Reserve Bank of Richmond conducted a field study of the Hancock and Hagerstown areas in order to define the relevant market. This study and other information of record indicate the following: Approximately 83 percent of the total dollar volume of Bank's demand deposits originates within a nine mile radius of Hancock. Hancock is approximately 27 miles west of Hagerstown. The two are connected primarily by a two lane highway, U.S. 40, and a four-lane highway, Interstate 70. U.S. 40 merges with Interstate 70 approximately 19 miles west of Hagerstown. The area west of Hagerstown beyond Clear Spring, Maryland (located approximately eight miles to the west of Hagerstown) is mountainous, sparsely populated, and unsuited for development. Although there has been some development immediately to the west of Hagerstown, the majority of growth has been directed to the north, south and east. Similarly, banking and business development in the Hancock area has been concentrated on a north-south axis. Of the banks outside of Hancock, the bank located closest to Hancock is five miles to the south in Berkeley Springs, West Virginia. In the area separating Hancock and Berkeley Springs is a large manufacturing plant. Most of the other businesses in the Hancock area are located on the road to Berkeley Springs, in Hancock itself, or to the north along Interstate 70.[2] Data generated by the Washington County Economic Development Commission ("Development Commission") indicates that the County's Planning Sector VI, which encompasses the Hancock area and consists of the westernmost 15 miles of Washington County, is the only sector of the county that experienced a decline in population between 1960 and 1970. The total population decrease for Sector VI during that period was 5.5 percent. By contrast, the population of the sector centered around Clear Spring increased by 7.7 percent.

The Development Commission has no information regarding commuting patterns in the County.[3] Officers of three Hagerstown banks that are major competitors of Applicant's subsidiary bank's branches in Hagerstown have stated that their respective banks derive little business from the Hancock area,[4] and thus it does not appear that a significant portion of Hancock consumers of banking services turn to Hagerstown banks for those services (other than for loans in excess of the lending limits of the Hancock banks). All three officers regarded Hancock as being outside of their market and felt that Applicant's proposed acquisition of Bank would have no competitive impact on their respective banks. Each of these bankers felt that their primary competitors, outside of the banks in Hagerstown itself, were located in southern Franklin County, Pennsylvania, in an area ten to 15 miles north of Hagerstown, and thus two of these bankers have recently opened, or are in the process of opening, branch offices north of Hagerstown. Accordingly, it does not appear that the proposed acquisition, if consummated, would have a direct or immediate effect upon competition in Hagerstown.

On the basis of the above and other information of record, the Board concludes that Hancock is located in a banking market separate from Hagerstown. The best approximation of the Hancock

[*] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, and Lilly. Absent and not voting: Chairman Burns and Governors Coldwell and Partee.

[1] Unless otherwise indicated, all banking data are as of December 31, 1975.

[2] Interstate 70 turns north at Hancock.

[3] Even if Protestant's unsubstantiated assertion that 10 percent of Hancock's workforce is employed in Hagerstown is accepted, it would be insufficient to establish that Hancock and Hagerstown are in the same market.

[4] As discussed below, Applicant also derives little banking business from the Hancock area.

Banking Market appears to be the western portion of Washington County (excluding Clear Spring) and the northern half of Morgan County, West Virginia, including Berkeley Springs (approximately five miles south of Hancock). The Hagerstown Banking Market is approximated by the remainder of Washington County and the extreme southern portion of Franklin County, Pennsylvania.[7]

Bank, with deposits of $9.5 million, is the second largest of three banks in the Hancock market and holds 30.0 percent of the total deposits in commercial banks in that market.[8] Applicant, with total deposits of $69.9 million in the Hagerstown market, is the largest of 16 banking organizations in that market, and controls 18.6 percent of market deposits.[9] Five other banks in the market have deposits in excess of $30 million.

Bank's sole office is located 25 miles west of the closest branch of Applicant's subsidiary bank. Both Applicant and Bank currently derive negligible amounts of business from the service area[10] of the other. Applicant's subsidiary bank's Hagerstown offices acquire approximately 0.5 percent of their deposits and 0.7 percent of their loans from Bank's service area, while Bank derives approximately 2.8 percent of its deposits and 9.0 percent of its loans from Applicant's subsidiary bank's service areas throughout the state. These figures represent less than two percent in each case of the loans and deposits outstanding in the Hancock market and in the Hagerstown market and suggest that there is little existing competition between Applicant and Bank. On balance the Board concludes that the effects of the proposed transaction on existing competition would, at most, be slightly adverse and that there would be no adverse effects on the concentration of banking resources in any relevant area.

Protestant suggests that the Hancock area would not be attractive for de novo entry by a new bank unaffiliated with a bank holding company, but that de novo entry into the Hancock area could prove profitable for a bank holding company with an established Washington County presence such as Applicant. Moreover, Protestant argues, allowing Applicant to enter the Hancock market will discourage other banks from entering that market and will place the "remaining small competitior" [*] in Hancock in competition with Applicant's much larger organization.

The Board is unable to conclude that the Hancock market is attractive for de novo entry generally or in the manner described by Protestant. The median family income of the Hancock market in 1970 was $7,100. This figure compares unfavorably with the $8,800 median for the Hagerstown market and the State median of $11,100. More significantly, the population per banking office in the State is approximately 5,200, whereas the Hancock market has only approximately 1200 people per banking office. Coupling this income and population data with the Hancock market's declining population suggests that the market is quite unattractive for de novo entry. This data also undermines Protestant's tacit assumption that State and Federal bank chartering authorities would readily grant an application to open either a branch office or a new bank in the Hancock market. With regard to Protestant's assertion that consummation of the proposed transaction will discourage entry by others, it is the Board's judgment that Applicant's acquisition of Bank will not raise significant additional barriers to de novo entry in view of the fact that the market is already quite unattractive for such entry. In view of the unattractiveness of the Hancock market for de novo entry, it does not appear that Applicant is a potential entrant into the market other than by acquisition of Bank.[11] Thus, it does not appear that consummation of the proposed acquisition would eliminate a substantial prospect for potential competition between Applicant and Bank.[12]

The financial and managerial resources of Applicant and its subsidiaries are satisfactory and their future prospects appear favorable. The financial resources of Bank are also satisfactory and its future prospects are favorable. It appears, however, that the managerial strength of Applicant could be a significant benefit for Bank and the Board concludes that banking factors lend some weight toward approval of the application.

With regard to the convenience and needs of the community to be served, Protestant states that there is generally no need in the Hancock area for the additional services Applicant proposes to offer. Applicant has submitted additional information regarding these matters and it appears that residents of the Hancock market will benefit from the addition of higher lending limits,[13] trust services, individual retirement accounts, and credit card services, all currently unavailable from Hancock area banks. Accordingly, the Board concludes that considerations related to the convenience and needs of the community to be served lend weight toward approval of the application. Any slight anticompetitive effects associated with the proposed transaction are clearly outweighed by convenience and needs considerations and the Board finds that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[14] effective December 29, 1976.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-606 Filed 1-6-77;8:45 am]

[7] Although Protestant asserts that Washington County is the relevant market, complete application of Protestant's rationale for placing Hancock and Hagerstown in the same banking market would require the inclusion of additional banks in Franklin County, Pennsylvania, all of the banks in Martinsburg, West Virginia, and several banks in Frederick County, Maryland. Applicant's share of such a market would approximate seven percent and Bank's would approximate 0.9 percent. In view of Bank's size and the small amount of competition presently existing between Applicant and Bank, an acquisition of Bank by Applicant if such were the relevant market would not have significant adverse effects on either existing or potential competition or market concentration.

[8] As of June 30, 1975.

[9] As of June 30, 1975.

[10] A service area is that geographic area contiguous to an office from which approximately 80 percent of the dollar amount of that office's deposits from individuals, partnerships, and corporations is derived.

[*] Protestant's reference to the "remaining small competitor" in Hancock ignores the existence of the third (and largest) bank in the Hancock market which is located five miles to the south of Hancock in Berkeley Springs, West Virginia.

[11] Protestant's reliance on Old Kent Financial Corp./National Lumberman's Bank and Trust Co., 60 *Fed. Res. Bull.* 133 (1974), reconsideration 61 *Fed. Res. Bull.* 247 (1975) (denied on competitive grounds), is misplaced. In that case the Board found the relevant market to be capable of supporting *de novo* entry and Old Kent was regarded as a likely *de novo* entrant. Old Kent was located in an adjacent market in which its market share was 49 percent, as opposed to Applicant's 18.6 percent.

Western Michigan Corp./First National Bank of Cassopolis, 62 *Fed. Res. Bull.* 624 (1976) and Alabama Bancorporation/Muscle Shoals National Bank, 61 *Fed. Res. Bull.* 672 (1975), also cited by Protestant, are inapplicable as in each of those cases the Applicant was located in the same market as the bank to be acquired.

[12] The record in this matter does not indicate whether the smallest bank in the Hancock market is available for acquisition by Applicant. While such availability might initially seem probative of the feasibility of foothold entry into the market, the facts that the smallest bank holds deposits of $8.3 million compared to Bank's $9.2 million, that the market share of the smallest bank is 26.8 percent while Bank's is 30 percent, and that the smallest bank operates two offices in the market to Bank's one, resolve the foothold entry question in favor of Applicant.

[13] Bank is presently prohibited by law from making loans in excess of $55,000. The legal lending limit of Applicant's subsidiary bank is approximately $8 million. As indicated above, each of the three Hagerstown competitors of Applicant's subsidiary bank has attempted to meet a need on the part of Hancock customers for loans exceeding the lending limits of the Hancock area banks.

[14] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson and Lilly. Absent and not voting: Chairman Burns and Governors Coldwell and Partee.

MANUFACTURERS NATIONAL CORP.

Order Approving Acquisition of Bank

Manufacturers National Corporation, Detroit, Michigan, a bank holding com-

pany within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of National Bank of Southfield, Southfield, Michigan ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fourth largest banking organization in Michigan, controls four banks with aggregate deposits of approximately $2.5 billion, representing 8.3 per cent of the total deposits held by commercial banks in Michigan.[1] Acquisition of Bank ($83.4 million in deposits) would increase Applicant's share of Statewide deposits to 8.6 per cent but would not change Applicant's ranking in the State.

Bank, a subsidiary of NBS Financial Corporation, Southfield, Michigan ("NBS"), a registered bank holding company now in the process of liquidating its assets, is located in a northwest suburb of Detroit in the Detroit banking market. Bank controls 0.5 per cent of the total deposits in commercial banks in the relevant market[2] and, were it an independent institution, would be the 18th largest of 38 banking organizations operating in the market.[3] Applicant is the third largest banking organization in the relevant market, controlling two banks (aggregate deposits of aproximately $2.4 billion) and 15.1 per cent of the commercial bank deposits in the market. Consummation of the proposal would increase Applicant's market share to 15.6 per cent.

In view of the already high level of banking concentration existing in the Detroit banking market (the four largest banking organizations control about 71.5 per cent of the deposits), the Board views with serious concern the increase in concentration that would result from the consummation of this proposal, and regards such an increase as a significantly adverse factor in its consideration of this application.

In addition to the effects of the proposal on banking concentration in the Detroit market, the Board is of the view that the proposal would have substantially adverse effects on existing competition between Applicant and Bank. Bank is headquartered in the Detroit suburb of Southfield wherein it operates five of its six banking offices; its other branch is located in a nearby township. Applicant has two subsidiary banks, including its lead bank, in the Detroit market, and many of their offices are located in close proximity to Southfield. Consequently, consummation of this proposal would eliminate a significant amount of existing competition within the Detroit market.

In view of the foreging discussion and based on the facts of record, the Board concludes that the competitive effects of the proposal are substantially adverse. Under the standards set forth in section 3(c) of the Bank Holding Company Act, it is clear that the Board may not approve the subject proposal unless the Board finds that "the anticompetitve effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served." In assessing such considerations in light of the facts surrounding this proposal, the Board finds that the anticompetitive effects are clearly outweighed in the public interest.

The financial and managerial resources and future prospects of Applicant and its subsidiaries are considered satisfactory and consistent with approval of this application. Bank's financial and managerial resources, absent consummation of the instant proposal, are less than satisfactory, and its future prospects are uncertain. Bank has suffered losses in its operations and, lacking the internal capability of reversing the adverse trend, it appears unlikely that Bank will be able to continue as a viable organization in serving the public. Under this proposal, Applicant has agreed to inject capital of $2 million and to provide significant managerial assistance to Bank. These actions would assure bank's continued viability and the availability of Bank as a source of banking services in the Detroit banking market. While the Board would prefer a less anticompetitive acquisition as a means of assuring the continuation of Bank as a vehicle for serving the convenience and needs of the public, it appears that such an alternative is not readily available. Therefore, the Board views the improved financial prospects of Bank and the convenience and needs considerations as lending significant weight toward approval of the application and clearly outweighing the substantially adverse competitive effects that would result from consummation of the proposal. Accordingly, it is the Board's judgment that consummation of the proposal would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[4] effective December 30, 1976.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-605 Filed 1-6-77;8:45 am]

[1] All banking data are as of December 31, 1975.

[2] The Detroit banking market is the relevant banking market and is approximated by Macomb, Oakland, and Wayne Counties.

[3] With its two subsidiary banks, NBS has aggregate deposits of approximately $118.1 million and is the fifteenth largest banking organization in the market with 0.7 per cent of the market's deposits.

[4] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, and Lilly. Absent and not voting: Chairman Burns and Governors Coldwell and Partee.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of February 1977:

Epidemiologic Studies Review Committee: February 7-8; 9:00 a.m., Brent Room, Old Town Holiday Inn, 480 King Street, Old Towne Alexandria, Va. Open—February 7, 9:00-10:00 a.m. Closed—Otherwise. Contact Mrs. Lavinia Walsh, Parklawn Building, Room 10C-09, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3774

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research and training activities in the field of epidemiology and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 to 10:00 a.m., February 7, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552(b)(5) and 552(b)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

* * * * *

DRUG ABUSE TRAINING REVIEW COMMITTEE

Date and time: February 14-16; 8:30 a.m.

Place: 8th Floor Conference Room, One Central Plaza, 11300 Rockville Pike, Rockville, Maryland.

Type of meeting: Open—February 14, 8:30-9:00 a.m.; Closed—Otherwise.

Contact: Ms. Sally Connell, Rockwall Building, Room 640, 11400 Rockville Pike, Rockville, Maryland 20852, 301-443-6720.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 8:30 a.m. to 9:00 a.m., February 14, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552(b)(5) and 552(b)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

COMMUNITY ALCOHOLISM SERVICES REVIEW COMMITTEE

Date and time: February 14–18; 9:00 a.m.
Place: Conference Room I, Parklawn Building, Rockville, Maryland.
Type of meeting: Open—February 14, 9:00–10:00 a.m.; Closed—Otherwise.
Contact: Mr. Sidney Leopold, Room 14C–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–4983.
Purpose: The Committee provides initial review of applications for community alcoholism services demonstration grants for the prevention of alcoholism and the treatment and rehabilitation of special population groups with drinking problems, such as cross-population, poverty, women and youth and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.
Agenda: From 9:00 a.m. to 10:00 a.m., February 14, the meeting will be open for discussion of administrative announcements. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552(b)(5) and 552(b)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

CRIME AND DELINQUENCY REVIEW COMMITTEE

Date and time: February 23–25; 9:00 a.m.
Place: Circle Room, Dupont Plaza Hotel, 1500 New Hampshire Avenue, N.W., Washington, D.C.
Type of meeting: Open—February 23, 9:00–10:30 a.m.; Closed—Otherwise.
Contact: Carol Beall, Parklawn Building, Room 18C–04, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3728.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research and training activities in crime and delinquency, law and mental health interactions, and individual violent behavior and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00 to 10:30 a.m., February 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552(b)(5) and 552(b)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

METROPOLITAN MENTAL HEALTH PROBLEMS REVIEW COMMITTEE

Date and time: February 24–25; 9:00 a.m.
Place: Cardinal Room, Holiday Inn, 1850 N. Fort Meyer Drive, Rosslyn, Virginia.
Type of meeting: Open—February 24, 9:00–9:30 a.m.; Closed—Otherwise.
Contact: Mrs. Phyllis Pinnow, Room 15–99, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3373.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to metropolitan mental health problems and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00 to 9:30 a.m., February 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552(b)(5) and 552(b)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

JUVENILE PROBLEMS RESEARCH REVIEW COMMITTEE

Date and time: February 24–26; 9:00 a.m.
Place: Parlor A, The Burlington Hotel, Vermont Avenue at Thomas Circle, N.W., Washington, D.C.
Type of meeting: Open—February 24, 9:00–9:30 a.m.; Closed—Otherwise.
Contact: Mrs. Diana Souder, Parklawn Building, Room 10–104, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3566.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the developmental growth of juveniles and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00 to 9:30 a.m., February 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552(b)(5) and 552(b)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

NEUROPSYCHOLOGY RESEARCH REVIEW COMMITTEE

Date and time: February 24–26; 9:00 a.m.
Place: Shenandoah Room, Ramada Inn, 1900 North Fort Meyer Drive, Arlington, Va.
Type of meeting: Open—February 24, 9:00–10:00 a.m.; Closed—Otherwise.
Contact: Mrs. Eileen Nugent, Parklawn Building, Room 10C–06, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3942.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to neuropsychology research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00 to 10:00 a.m., February 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552(b)(5) and 552(b)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above.

The NIAAA Information Officer who will furnish summaries of the meeting and rosters of the Committee members is Mr. Harry C. Bell, Associate Director for Public Affairs, NIAAA, Room 6C–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3306. The NIDA Information Officer who will furnish summaries of the meeting and rosters of the Committee members is Ms. Mary Carol Kelly, Program Information Officer for Drug Abuse, NIDA, Room 814, Rockwall Building, 11400 Rockville Pike, Rockville, Maryland 20852, 301–443–6245. The NIMH Information Officer who will furnish summaries of the meetings and rosters of the Committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3600.

Dated: January 3, 1977.

CAROLYN T. EVANS,
Committee Management Officer Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-564 Filed 1-6-77;8:45 am]

INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR ALCOHOL ABUSE AND ALCOHOLISM

Meeting

INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR ALCOHOL ABUSE AND ALCOHOLISM

Date and time: January 25; 9:00 a.m.
Place: Conference Room "P," Parklawn Building, Rockville, Maryland.
Open meeting.
Contact: James Vaughan, Parklawn Building, Room 16C–17, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–2954.
Purpose: The Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism (1) evaluates the adequacy and technical soundness of all Federal programs and activities which relate to alcohol abuse and alcoholism and provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and (2) seeks to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.
Agenda: This meeting will be open to the public. The meeting will consist of presentations by working groups of their current and proposed activities and a discussion concerning future working group activities. Attendance by the public will be limited to space available.

Substantive program information may be obtained from the contact person listed above.

The NIAA Information Officer who will furnish summaries of the meeting and a roster of Committee members is Mr. Harry C. Bell, Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3306.

Dated: January 3, 1977.

CAROLYN T. EVANS,
Committee Management Officer Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-563 Filed 1-6-77;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Public Meetings

Notice is hereby given, pursuant to Public Law 92-463, that the next meetings of the National Advisory Council on Women's Educational Programs will be held from 8:30 a.m. to 12:30 p.m. on January 31, from 8:30 a.m. to 5:00 p.m. on February 1 and from 8:30 a.m. to 11:00 a.m. on February 2, 1977, in Room 370 of the New Federal Office Building at 915 2nd Avenue, Seattle, Washington. ceded by a meeting of the Executive Co The meeting of the Council will be preceded by a meeting of the Executive Committee from 3:00 p.m. to 6:00 p.m. on January 30, 1977, in Room 351 of the Olympic Hotel, Fourth Avenue at Seneca, Seattle, Washington. There will also be meetings of the Council's Federal Policy and Practices, Legislation and Program Committees from 2:00 p.m. to 5:30 p.m. on January 31, 1977 at the New Federal Office Building.

The National Advisory Council on Women's Educational Programs is established pursuant to Public Law 93-380 section 408(f)(1). The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to Section 408 of Public Law 93-380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; (d) make such reports to the President and the Congress on the activities of the Council as it determines appropriate; (e) develop criteria for the establishment of program priorities; and (f) disseminate information concerning its activities under section 408 of Public Law 93-380.

The meetings of the Council and of the Committees will be open to the public. The agenda for the Council meeting will include (1) Executive Director's Report; (2) discussion of draft regulations for the Women's Educational Equity Act; (3) discussion of the Council evaluation of the WEEA Program; (4) the Council's 1976 Annual Report; (5) presentations by members of the public; (6) committee reports; and (7) other business.

The agenda for the Executive Committee meeting will include preparation of the Council meeting.

The agenda for the Federal Policy and Practices Committee meeting will include discussion of the Council's reviews of the Education Division of HEW and of the Commissioner's Reports on Sexism.

The agenda for the Legislation Committee meeting will include discussion of the FY 1977 regulation for the Women's Educational Equity Act Program.

The agenda for the Program Committee will include discussion of the Council's evaluation of the Women's Educational Equity Act Program.

Records will be kept of all Council proceedings and will be available for inspection at the Council offices at Suite 821, 1832 M Street, NW., Washington, D.C.

Signed at Washington, D.C. on January 5, 1976.

JOY R. SIMONSON,
Executive Director.

[FR Doc.77-618 Filed 1-6-77;8:45 am]

ARTS EDUCATION PROGRAM

Closing Date for Receipt of Applications for Fiscal Year 1977

Notice is hereby given that, pursuant to the authority contained in section 409 of the Education Amendments of 1974, Pub. L. 93-380 (20 U.S.C. 1867), applications are being accepted from State and local educational agencies for arts education project grants.

Applications must be received by the U.S. Office of Education Application Control Center on or before March 1, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Grant and Procurement Management Division, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.566. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than February 24, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or by the U.S. Office of Education mail rooms in Washington, D.C.

In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Application routing.* All local educational agency applicants must furnish an information copy of their application to the State educational agency of the State within which the applicant is located. This information copy must be submitted concurrently with the submission of the application to the U.S. Office of Education. The application submitted to the U.S. Office of Education must contain a statement that this has been accomplished. The State educational agency, in consultation with the State Alliance for Arts Education Committee, if any, has an opportunity to review and comment on the application. A State educational agency wishing to submit advice and comment on an LEA application originating within its State may do so by forwarding such advice and comment to the Arts and Humanities Staff, U.S. Office of Education, 400 Maryland Avenue, S.W. (Room 421, Reporters Building), Washington, D.C. 20202. If the State educational agency does not send comments on the application to the Commissioner within 30 days after receipt of the copy, it is considered to have waived the right to comment (45 CFR 160g.15).

D. *Application instructions and forms.* Applications must be prepared and submitted in accordance with instructions and forms which may be obtained from the Arts and Humanities Staff, U.S. Office of Education, 400 Maryland Avenue, S.W. (Room 421, Reporters Building), Washington, D.C. 20202. (Telephone: 202-245-8912 or 202-245-9097)

E. *Program information.* It is expected that $750,000 in grants will be awarded to State and local educational agencies during Fiscal Year 1977. It is anticipated that up to 100 awards will be made and that grants will range from $5,000 to $10,000. No funds are reserved for the continuation awards, but a current grantee may submit an application which will be evaluated in competition with all other applications. Projects are up to one year in duration (45 CFR 160g.4).

F. *Applicable regulations.* The regulations applicable to the Arts Education Program are:

(1) The Office of Education General Provisions Regulations, which were published in the FEDERAL REGISTER on November 6, 1973, at 30653, as amended (45 CFR Parts 100, 100a, and appendices).

(2) The regulation for the Arts Education Program which was published in the FEDERAL REGISTER on April 26, 1976 at 17390 (45 CFR Part 160g).

(20 U.S.C. 1867.)

(Catalog of Federal Domestic Assistance Number 13.566, Arts Education Program.)

Dated: December 27, 1976.

JOHN W. EVANS,
Acting
Commissioner of Education.

[FR Doc.77-552 Filed 1-6-77;8:45 am]

Food and Drug Administration

ADVISORY COMMITTEE

Meeting

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committee and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and the FDA regulations, 21 CFR Part 2, Subpart D, relating to advisory committees. The following advisory committee meeting is announced:

Committee name	Date, time, and place	Type of meeting and contact person
Ear, Nose, and Throat Panel.	Jan. 24 and 25, 9 a.m., Room 1813, FB-8, 200 C St., SW., Washington, D.C.	Open public hearing Jan. 24, 9 a.m. to 10 a.m.; open committee discussion Jan. 24, 10 a.m. to 4:30 p.m., Jan. 25, 9 a.m. to 4:30 p.m.; Harry R. Sauberman, P.E., (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7226.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to devices to be classified at this meeting to the executive secretary. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by January 14, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. Completion and review of supplementary classification data sheets for middle ear implants, esophageal implants, nasal implants, laryngeal implants, facial implants, and ENT prosthetic materials, which include the following devices: Middle ear implants: Tubes for aeration and/or drainage of the middle ear, middle earmold (Teflon TM, Silastic TM, Supramid TM), ossicular replacement-incus and stapes with normal malleus, total ossicular replacement-sacculotomy tacks (Cody Tacks), and endolymphatic shunt tubes; esophageal implants; Esophageal stent and esophageal prosthesis; nasal implants: Columella—nasal struts and septal implants and teflon paste (for both nasopharyngeal and laryngeal applications); laryngeal implants: Laryngeal stent and laryngeal prosthesis; facial implants: Facial prosthesis—immobile implants (maxillofacial, crainofacial, and external otologic), and facial prosthesis—mobile implants (mandibular); prosthetic implant materials: Natural polymers (Gelfoam TM, Gelfilm TM), synthetic polymers (Plasti-Pore TM, Teflon TM, Silastic TM, polyethylene, polymethylmethacrylate, Dacron TM, and polyurethane); other prosthetic implant materials; Composite synthetic polymers (proplast TM) and metal materials (stainless steel, silver, tantalum, platinum, vitallium, titanium); miscellaneous ENT devices and implants: Tracheostomy tubes and tracheostomy tube cuffs, sutures—absorbable (gut, collagen, and some synthetic polymers), sutures—nonabsorbable (cotton, silk, nylon, linen, mersilene TM, polypropylene, stainless steel, and ethibond TM).

As time is available, the panel will also complete supplementary data sheets for the following devices: Hearing evaluation equipment: acoustic chambers, air conduction transducers, bone conduction transducers, hearing trumpets, mechanical noise generators, sisi adapters, tuning forks, hearing aid measurement systems, and hearing protective devices; physiological evaluation equipment: gustometers, nasomanometers, toynbee diagnostic tubes, and transilluminators; multiple function ENT equipment: Cuspidors, powered ENT examining/treatment chairs, ENT examining/treatment tables, ENT treatment units, and oral lavage units; ENT prosthetic devices (nonimplantable) and instruments: Otoplasty prosthesis, rhinoplasty prosthesis, cutting blocks, gelfoam punch; ossicular finger vise, piston cutting jigs, wire bending die, wire closure forceps, wire crimpers, and wire cutting scissors.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 2, Subpart D, published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52148).

The Commissioner approves the scheduling of meetings at locations outside of the Washington, DC, area on the basis of the criteria of § 2.307 (21 CFR 2.307) of FDA's regulations relating to public advisory committees.

Dated: December 30, 1976.

WILLIAM F. RANDOLPH,
Acting Associate
Commissioner for Compliance.

[FR Doc.77-421 Filed 1-6-77;8:45 am]

[Docket No. 76N-0458; DESI 11836]

IMIPRAMINE HYDROCHLORIDE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

The Food and Drug Administration is offering an opportunity for a hearing on indications previously reclassified from possibly effective to lacking substantial evidence of effectiveness for imipramine hydrochloride and announcing the conditions under which the drug products may be marketed on the basis of ap-

proved abbreviated new drug applications. Persons who wish to request a hearing may do so on or before February 7, 1977.

In a notice (DESI 11836; Docket No. FDC-D-219 (now Docket No. 76N-0458)) published in the FEDERAL REGISTER of August 26, 1970 (35 FR 13608), the Food and Drug Administration announced its conclusions that the drug products described below are effective, possibly effective, and lacking substantial evidence of effectiveness for their various labeled indications. The notice offered opportunity for hearing on the indications that, at that time, lacked substantial evidence of effectiveness. No one requested a hearing.

A followup notice published in the FEDERAL REGISTER of September 20, 1972 (37 FR 19390), reclassified the possibly effective indications to lacking substantial evidence of effectiveness. An opportunity for a hearing was not offered at that time for those indications, but is now offered in the notice below. The holder of the new drug applications has deleted all less-than-effective indications from the labeling.

NDA 11-836; Tofranil Tablets; and
NDA 11-838; Tofranil Ampuls, each containing imipramine hydrochloride; Geigy Pharmaceuticals, Division of Ciba-Geigy Corp., Saw Mill Rd., Ardsley, NY 10502.

Other drugs included in the above notices are not affected by this notice.

Accordingly, the notice of August 26, 1970 is amended to read as follows insofar as it pertains to the products named above.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder of the new drug applications specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20852.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug products are effective for the indication stated in the labeling conditions below. The drug products now lack substantial evidence of effectiveness for the indications reclassified from possibly effective to lacking substantial evidence of effectiveness in the September 20, 1972 notice.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications.

1. *Form of drug.* The drug products are in tablet form suitable for oral administration or in sterile aqueous solution form suitable for parenteral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. Any indication other than that stated below must be supported by clinical evidence providing substantial evidence of effectiveness and submitted in a full new drug application except that manufacturing control information submitted should be that required under 21 CFR 314.1(f). The Indication is as follows:

For the relief of symptoms of depression. Endogenous depression is more likely to be alleviated than other depressive states.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that the holder of the application submits the following, if he has not previously done so, on or before March 8, 1977: (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c) to the extent required in abbreviated new drug applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)), must be obtained prior to marketing such product. The applications shall contain the information specified in 21 CFR 314.1(f), and for imipramine hydrochloride oral dosage forms, shall include data of the kind required for this drug at the time of submission of the application to show that it is biologically available in the formulation proposed for marketing. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the op-

portunity for a hearing, he shall file (1) on or before February 7, 1977, a written notice of appearance and request for hearing, and (2) on or before March 8, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A. of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during working hours, Monday through Friday.

Communications forwarded in response to this notice should be identified with the reference number DESI 11836, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Rm. 10B-34, Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Request for Hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.31) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: December 20, 1976.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-323 Filed 1-6-77;8:45 am]

[NADA 12-824V]

MIDICEL ACETYL SUSPENSION

Withdrawal of Approval of New Animal Drug Application

The Food and Drug Administration is withdrawing approval of a new animal drug application (NADA) for Midicel Acetyl Suspension, Veterinary; effective January 7, 1977.

Published elsewhere in this issue of the FEDERAL REGISTER is the revocation of § 520.2301 *Acetyl sulfamethoxypyridazine oral suspension* (21 CFR 520.2301), which provided for use of the product as approved in NADA 12-824V.

Parke, Davis & Co., Detroit, MI 48232 is the holder of NADA 12-824V, which provides for the use of Midicel Acetyl Suspension, Veterinary, for the treatment of sulfa-susceptible bacterial infections in dogs and cats.

On July 27, 1976, the applicant notified the agency that it ceased marketing the drug as of November 1975 and had no plans to market the drug in the future. On this basis it requested that the agency withdraw approval of the NADA and accordingly waived an opportunity for hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)) and pursuant to authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of Veterinary Medicine (21 CFR 5.29) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the following notice is issued:

In accordance with § 514.115 (21 CFR 514.115), approval of NADA 12-824V and all supplements and amendments thereto is hereby withdrawn, effective January 7, 1977.

Dated: December 28, 1976.

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

[FR Doc.77-325 Filed 1-6-77;8:45 am]

[Docket No. 76N-0467]

SAFETY OF CERTAIN FOOD INGREDIENTS

Opportunity for Public Hearing

The Food and Drug Administration is announcing an opportunity for public hearing on the safety of certain food ingredients to determine if they are generally recognized as safe (GRAS) or subject to a prior sanction. Requests to make oral presentations at the public hearing must be postmarked on or before February 7, 1977.

The Commissioner of Food and Drugs issued, in the FEDERAL REGISTER of July 26, 1973 (38 FR 20053), a notice advising the public that an opportunity would be provided for oral presentation of data, information, and views at public hearings to be conducted by the Select Committee on GRAS Substances of the Life Sciences Research Office, Federation of American Societies for Experimental Biology (hereinafter referred to as the Select Committee), about the safety of ingredients used in food to determine if they are generally recognized as safe (GRAS) or subject to a prior sanction.

The Commissioner now gives notice that the Select Committee is prepared to conduct a public hearing on the following categories of food ingredients: Glycerophosphates (calcium, magnesium, manganese, potassium); magnesium salts (carbonate, chloride, hydroxide, oxide, phosphate (di-and tribasic), stearate, sulfate); hydroxides (potassium, sodium); sulfiting agents (potassium bisulfite, potassium metabisulfite, sodium bisulfite, sodium metabisulfite, sodium sulfite, sulfur dioxide). The public hearing will provide an opportunity, before the Select Committee reaches its final conclusions, for any interested person(s) to present scientific data, information, and views on the safety of these substances, in addition to those previously submitted in writing pursuant to notices published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20051, 20053) and April 17, 1974 (39 FR 13796, 13798).

The Select Committee has reviewed all the available data and information on the categories of food ingredients listed above and has reached one of the five following tentative conclusions on the status of each:

1. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

2. There is no evidence in the available information that demonstrates or suggests reasonable grounds to suspect a hazard to the public when it is used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption would constitute a dietary hazard.

3. Although no evidence in the available information demonstrates a hazard to the public when it is used at levels that are now current and in the manner

now practiced, uncertainties exist requiring that additional studies be conducted. (This conclusion has not been reached for any of the substances discussed in this notice.)

4. The evidence is insufficient to determine that the adverse effects reported are not deleterious to the public health when it is used at levels that are now current and in the manner now practiced. (This conclusion has not been reached for any of the substances discussed in this notice.)

5. The information available is not sufficient to make a tentative conclusion. (This conclusion has not been reached for any of the substances discussed in this notice.)

The following table lists each ingredient, the Select Committee's tentative conclusion (keyed to the five types of conclusions listed above), and the available information on which the Select Committee reached its conclusions.

Substance	Select committee tentative conclusion	Scientific literature review		Animal study report order No. and cost	Other information
		Order No.	Cost		
Glycerophosphates		PB-228-543/AS	$3.75	None	a. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," available from the National Technical Information Service, PB Nos. 221-921 through 221-949. b. Letter dated Nov. 20, 1974, from N. G. Barker, The Delmark Co., Inc., Minneapolis, MN.
Calcium glycerophosphate	1				
Calcium glycerophosphate (used in food-packaging materials).	1				
Magnesium glycerophosphate (used in food-packaging materials).	1				
Manganese glycerophosphate	1				
Potassium glycerophosphate	1				
Magnesium salts		PB-228-50/AS	$5.50	Mutagenic evaluation (tier 1) of magnesium oxide USP heavy power (73-77) by Litton Bionetics, Inc., under FDA contract (PB-245-472/AS, $3.75).	a. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," available from the National Technical Information Service, PB Nos. 221-921 through 221-949. b. Letter dated June 22, 1961, from F. A. Cassidy, FDA. c. Letter dated Apr. 13, 1962, from M. R. Stephens, FDA.
Magnesium carbonate	1				
Magnesium chloride	1				
Magnesium hydroxide	1				
Magnesium oxide	1				
Magnesium phosphate, dibasic	1				
Magnesium phosphate, tribasic	1				
Magnesium stearate	1				
Magnesium sulfate	1				
Hydroxides		PB-234-809/AS	$3.75	None	a. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," available from the National Technical Information Service, PB Nos. 221-921 through 221-949.
Potassium hydroxide	1				
Sodium hydroxide	1				
Sodium hydroxide (used in food packaging materials).	1				
Sulfiting agents		PB-221-217	$6.00	Mutagenic evaluation (tier 1) of potassium metabisulfite (71-21) by Litton Bionetics, Inc., under FDA contract (PB-245-485/AS, $3.75). Teratologic evaluation of potassium metabisulfite (71-21) by Food and Drug Research Labs. Inc., under FDA contract (PB-245-529/AS, $3.75). Mutagenic evaluation (host-mediated, dominant lethal and cytogenetic) of sodium bisulfite (71-20) by Litton Bionetics, Inc., under FDA contract (PB-245-456/AS, $5.25). Teratologic evaluation of sodium bisulfite (71-20) by Food and Drug Research Labs., Inc., under FDA contract (PB-221-788, $3.75). Mutagenic evaluation (host-mediated, dominant lethal and cytogenetic) of sodium metabisulfite (71-22) by Stanford Research Institute, under FDA contract (PB-221-825, $5.45). Teratologic evaluation of sodium metabisulfite (71-22) by Food and Drug Research Labs., Inc., under FDA contract (PB-221-795, $3.75). Mutagenic evaluation (tier 1) of sodium sulfite (73-43) by Litton Bionetics, Inc., under FDA contract (PB-245-488/AS, $3.75).	a. Human intake data taken from "A Comprehensive Survey of Industry on the Use of Food Chemicals Generally Recognized as Safe (GRAS)," available from the National Technical Information Service, PB Nos. 221-921 through 221-949. b. Letter dated June 11, 1976, from D. F. Dodgen, NAS. c. "Investigation of the toxic and teratogenic effects of GRAS substances to the developing chick embryo: potassium metabisulfite," St. Louis University School of Medicine. d. "Sodium bisulfite: Toxicity and teratogenicity studies in avian embryos," submitted to FDA by University of Arizona. e. "Evaluation of chemicals for toxic and teratogenic effects using the chick embryo as the test system: Sodium metabisulfite," submitted to FDA by WARF Institute, Inc. f. "Investigations of the toxic and teratogenic effects of GRAS substances to the developing chicken embryo: sodium sulfite," FDA in-house investigation.
Potassium bisulfite	2				
Potassium metabisulfite	2				
Sodium bisulfite	2				
Sodium metabisulfite	2				
Sodium sulfite	2				
Sulfur dioxide	2				

Reports in the table with "PB" prefixes may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22151.

In addition to the information contained in the documents listed in the table above, the Select Committee supplemented, where appropriate, its reviews with specific information from specialized sources, as announced in a previous hearing opportunity notice published in the FEDERAL REGISTER of September 23, 1974 (39 FR 34218).

The Select Committee's tentative reports on (1) glycerophosphates (calcium, magnesium, manganese, potassium), (2) magnesium salts (carbonate, chloride, hydroxide, oxide, phosphate (di- and tribasic), stearate, sulfate), (3) hydroxides (potassium, sodium), and (4) sulfiting agents (potassium bisulfite, potassium metabisulfite, sodium bisulfite, sodium metabisulfite, sodium sulfite, sulfur dioxide) are available for review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and also at the Public Information Office, Food and Drug Administration, Rm. 3807, 200 "C" St. SW., Washington, DC 20204. In addition, all reports and documents used by the Select Committee to review the ingredients are available for review in the office of the Hearing Clerk.

To schedule the public hearing, the Select Committee must be informed of the number of persons who wish to attend and the length of time requested to give their views. Accordingly, any interested person who wishes to appear at the public hearing to make an oral presentation shall so inform the Select Committee in writing, addressed to: the Select Committee on GRAS Substances, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20014. A copy of each such request shall be sent to the Hearing Clerk, address noted above, and all such requests shall be placed on public display in that office. Any such request must be postmarked on or before February 7, 1977, and shall state the substances(s) on which an opportunity to present oral views is requested, and shall state how much time is requested for the presentation. As soon as possible thereafter, a notice announcing the date, time, place, and scheduled presentations for any public hearing that may be requested will be published in the FEDERAL REGISTER.

The purpose of the public hearing is to receive data, information, and views not previously available to the Select Committee about the substances listed above. Information already contained in the scientific literature reviews and in the

tentative Select Committee report shall not be duplicated, although views on the interpretation of this material may be presented.

Depending on the number of requests for opportunity to make oral presentations, the Select Committee may reduce the time requested for any presentation. Due to time limitations, individuals and organizations with common interests are urged to consolidate their presentations. Any interested person may, in lieu of an oral presentation, submit written views, which shall be considered by the Select Committee. Three copies of such written views shall be addressed to the Select Committee at the address noted above, and must be postmarked not later than 10 days before the scheduled date of the hearing. A copy of any written views shall be sent to the Hearing Clerk, Food and Drug Administration, and shall be placed on public display in that office.

A public hearing will be presided over by a member of the Select Committee. Hearings will be transcribed by a reporting service, and a transcript of each hearing may be purchased directly from the reporting service and will also be placed on public display in the office of the Hearing Clerk, Food and Drug Administration.

Dated: December 30, 1976.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-422 Filed 1-6-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1023]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULE MAKING PROCEEDINGS FILED

DECEMBER 30, 1976.

Docket or RM No.	Rule No.	Subject	Date received
RM-2676	Parts 0 and 1	Request amendment of pts. 0 and 1 of the Commission rules to facilitate participation of indigent interested persons in Commission proceedings.	
		Filed by Collot Guerard, Harvey J. Shulman, and Lawrence A. Cook attorneys for National Black Media Coalition, National Citizens Committee for Broadcasting, National Organization for Women, and Action for Children's Television.	Dec. 28, 1976
18875		Inquiry into policy to be followed in future licensing of facilities for overseas communications.	
		Filed by Robert E. Conn, executive vice president for Western Union International, Inc.	Dec. 29, 1976
		Filed by Francis J. DeRosa and Charles M. Lelurhaupt, attorneys for RCA Global Communications, Inc.	Do.
19995	Sub. E, pt. 76.	Amendment of sub. F of pt. 76 of the Commission's rules and regulations with respect to network program exclusivity protection by cable television systems.	
		Filed by Sol Schildhause, attorney for Moscow TV Cable Co, Inc, and Pullman TV Cable Co, Inc.	Do.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before Jan. 24, 1977. Replies to an opposition must be filed within 10 d after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION.
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-533 Filed 1-6-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-383]

NOTICE OF EMERGENCY DECLARATION

Amendment and Republishing of Amendments

On December 15, 1976, the Presdent directed the Secretary of Agriculture and the Administrator of the Federal Disaster Assistance Administration to cooperate in providing emergency livestock feed assistance in several States which have been declared emergency areas because of drought. On December 16, 1976, I designated certain counties in the States of Minnesota, Wisconsin, South Dakota, and North Dakota eligible for emergency livestock feed assistance. Notice of these designations appeared in the FEDERAL REGISTER on December 27, 1976 (41 FR 56240).

The Agricultural Stabilization and Conservation Service of the Department of Agriculture has notified us that an additional 24 counties in these four states should have been included among the counties in the original designation. Nine of these 24 counties were designated eligible for assistance effective December 27, 1976. As a result, I am amending the December 16, 1976, designations to include these 24 counties and am republishng the notices for convenience.

Accordingly, the notices dated December 16, 1976, and December 27, 1976, are rescinded and replaced by the following:

(FDAA-3013-EM)

MINNESOTA

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Minnesota, dated June 17, 1976, and amended on June 28, 1976, August 27, 1976, and on Novemer 9, 1976, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 17, 1976:

The counties of:

Aitkin	Lac qui Parle
Becker	Lincoln
Beltrami	Lyon
Benton	Morrison
Big Stone	Otter Tail
Brown	Pope
Cartlon	Redwood
Cass	Stearns
Chippewa	Stevens
Chisago	Swift
Clearwater	Todd
Crow Wing	Traverse
Douglas	Wadena
Hubbard	Yellow Medicine
Isanti	

(FDAA-3014-EM)

WISCONSIN

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Wisconsin, dated June 17, 1976, and amended on July 29, 1976, September 7, 1976, and on September 30, 1976, is hereby further amended to include the following counties among those counties determned to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 17, 1976:

The counties of:

Ashland	Marathon
Bayfield	Oneida
Burnett	Price
Clark	Rusk
Douglas	Sawyer
Florence	Shawano
Forest	Taylor
Iron	Washburn
Langlade	Waushara
Lincoln	Wood

(FDAA-3015-EM)

SOUTH DAKOTA

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of South Dakota dated June 17, 1976, and amended on July 8, 1976, and October 18, 1976, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 17, 1976:

The counties of:

Aurora	Faulk
Beadle	Grant
Brookings	Gregory
Brown	Hamlin
Brule	Hand
Buffalo	Hanson
Campbell	Hughes
Clark	Hyde
Codington	Jerauld
Corson	Kingsbury
Davison	Lake
Day	Lyman
Deuel	McCook
Dewey	McPherson
Douglas	Marshall
Edmunds	Mellette

Minor	Sully
Potter	Todd
Roberts	Tripp
Sanborn	Walworth
Shannon	Washabaugh
Spink	Ziebach
Stanley	

(FDAA-3016-EM)

NORTH DAKOTA

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of North Dakota dated July 21, 1976, is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 21, 1976:

The counties of:

Dickey	McIntosh
Emmons	Ransom
LaMoure	Richland
Logan	Sargent

The purpose of these designations is to provide emergency livestock feed assistance only in the aforementioned affected areas. The Effective date for this assistance is December 16, 1976.

Dated: December 30, 1976.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

WILLIAM E. CROCKETT,
Acting Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-612 Filed 1-6-77;8:45 am]

Federal Insurance Administration

[Docket No. N-76-680]

NATIONAL FLOOD INSURANCE PROGRAM; CONSULTATION WITH LOCAL OFFICIALS

Determination of Minimal Special Flood Hazard Areas

The Federal Insurance Administrator, after consultation with local officials of the communities listed below, has determined, based upon analysis of existing conditions in the Special Flood Hazard areas, that it is appropriate at this time to convert these communities to the Regular Program of the National Flood Insurance Program without determining base flood elevations.

Community	County	State
City of Cullman	Cullman	Alabama.
Town of Parker	Yuma	Arizona.
City of Foster City	San Mateo	California.
Town of:		
Prospect	New Haven	Connecticut.
Bridgeville	Sussex	Delaware.
Cheswold	Kent	Do.
Felton	do	Do.
Middletown	New Castle	Do.
City of:		
Grovetown	Columbia	Georgia.
Harlem	do	Do.
Leona	Doniphan	Kansas.
Pawnee Rock	Barton	Do.
Valley Center	Sedgwick	Do.
Town of:		
Hebron	Oxford	Maine.
Brookview	Dorchester	Maryland.
Brunswick	Frederick	Do.
Village of Waterloo	Douglas	Nebraska.
Township of Rush	Northumberland	Pennsylvania.

(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: December 17, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-482 Filed 1-6-77;8:47 am]

DEPARTMENT OF THE INTERIOR

Geological Survey

EARTHQUAKE STUDIES ADVISORY PANEL

Public Meeting

Pursuant to Pub. L. 92-463, effective January 5, 1973, notice is hereby given that an open meeting of the Earthquake Studies Advisory Panel will be held beginning at 8:30 a.m. (local time) on Friday, February 4, 1977, and continuing through Saturday, February 5, 1977. The Advisory Panel will meet in U.S. Geological Survey Offices, Menlo Park, California 94025: on Friday in Conference Facility A, 345 Middlefield Road and on Saturday in Conference Room 8111, 275 Middlefield Road.

(1) *Purpose.* The Advisory Panel was appointed to advise the Geological Survey on earthquake plans and programs which are conducted in cooperation with universities, industry, and other Federal and State government agencies in a coordinated national program for earthquake research.

(2) *Membership.* The Advisory Panel is chaired by Professor Frank Press and is composed of persons drawn from the fields of geology, geophysics, engineering, rock mechanics, and socio-economics, primarily from the academic community.

(3) *Agenda.* Review of the studies of the Southern California land uplift and plans for the 1978 Fiscal year program.

For more detailed information about the meeting, please call Dr. Robert M. Hamilton, Chief, Office of Earthquake Studies, Reston, Virginia 22092 (703) 860-6472.

V. E. MCKELVEY,
Director,
United States Geological Survey.

[FR Doc.77-648 Filed 1-6-77;8:45 am]

National Park Service

APPALACHIAN NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Mid-Atlantic Region of the Appalachian National Scenic Trail Advisory Council will be held at 9 a.m., e.s.t. on February 4, 1977, at Skylands Manor, Ringwood State Park, Ringwood, New Jersey.

The Council was originally established by Pub. L. 90-543 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the administration of the Appalachian National Scenic Trail. It was rechartered by the Secretary of the Interior on February 24, 1975, under the authority of Pub. L. 91-383.

The purpose of the Council is to provide for the free exchange of ideas between the National Park Service and the public, and to encourage suggestions and ideas from members of the public on problems and programs pertinent to the Appalachian National Scenic Trail. The purpose of this meeting is as follows: (1) To discuss the progress of State and Federal programs; (2) to review specific Trail protection priorities and strategies; (3) to discuss Trail corridor studies completed by the Appalachian Trail Conference and Pennsylvania State University; (4) to analyze the problems related to private property.

The meeting will be open to the public. However, space is limited to seats for 30 people. Persons will be accommodated on a first-come, first-served basis. Any person may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who will wish to submit written statements, may contact David A. Richie, Project Manager, Appalachian Trail Project Office, Charlestown Navy Yard, Boston, Massachusetts 02129, at area code 617-242-1730.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the above address, and at the headquarters of the Appalachian Trail Conference, Washington and Jackson Streets, Harpers Ferry, West Virginia 25425. Copies of the minutes may be obtained by writing to the Appalachian Trail Project Office in Boston.

Dated: December 13, 1976.

DAVID A. RICHIE,
Project Manager,
North Atlantic Region.

[FR Doc.77-707 Filed 1-6-77;8:45 am]

APPALACHIAN NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Southern Region of the Appalachian National Scenic Trail Advisory Council will be held at 9 a.m., e.s.t. on January 22, 1977, at the headquarters of the National Forests in North Carolina, Asheville, North Carolina.

The Council was originally established by Pub. L. 90-543 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the administration of the Appalachian National Scenic Trail. It was rechartered by the Secretary of the Interior on February 24, 1975, under the authority of Pub. L. 91-383.

The purpose of the Council is to provide for the free exchange of ideas between the National Park Service and

the public, and to encourage suggestions and ideas from members of the public on problems and programs pertinent to the Appalachian National Scenic Trail. The purpose of this meeting is as follows: (1) To discuss the progress of State and Federal programs; (2) to review specific Trail protection priorities and strategies; (3) to discuss Trail corridor studies completed by the Appalachian Trail Conference and Pennsylvania State University; (4) to review the issues related to the designation of a protection zone for the Trail.

The meeting will be open to the public. However, space is limited to seats for 30 people. Persons will be accommodated on a first-come, first-served basis. Any person may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who will wish to submit written statements, may contact David A. Richie, Project Manager, Appalachian Trail Project Office, Charlestown Navy Yard, Boston, Massachusetts 02129, at area code 617–242–1730.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the above address, and at the Headquarters of the Appalachian Trail Conference, Washington and Jackson Streets, Harpers Ferry, West Virginia 25425. Copies of the minutes may be obtained by writing to the Appalachian Trail Project Office in Boston.

Dated: December 13, 1976.

DAVID A. RICHIE,
Project Manager,

[FR Doc.77-709 Filed 1-6-77;8:45 am]

CUYAHOGA VALLEY NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held at 7:30 p.m., e.s.t., January 27, 1977, at the Bath Township Hall, 1241 North Cleveland-Massillon Road, Bath, Ohio.

The Commission was established by Pub. L. 93–555 to meet and consult with the Secretary of the Interior on matters relating to the development of the Cuyahoga Valley National Recreation Area and with respect to carrying out the provisions of the Pub. L.

The members of the Commission are as follows:

Mrs. Robert G. Warren (Chairman)
Mr. Courtney Burton
Mr. Norman A. Godwin
Mr. Donald W. Haskett
Mr. Robert L. Hunker
Mr. James S. Jackson
Mr. Melvin J. Robholz
Mrs. Roger Rossi
Mrs. George N. Seltzer
Ms. R. Robin Stillman
Mr. Barry K. Sugden
Mr. Robert W. Teater
Mr. William O. Walker

Matters to be discussed at this meeting include:

1. Report on park operations.
2. Status of land acquisition.
3. Recent legislation affecting the park.
4. Status of the General Management Plan.
5. Report on community relations.
6. Report on adverse land use.

The meeting will be open to the public. It is expected that about 100 persons in addition to members of the Commission will be able to attend this meeting. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from William C. Birdsell, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone 216–653–9036. Minutes of the meeting will be available for public inspection three weeks after the meeting at the office of Cuyahoga Valley National Recreation Area, located at 501 West Streetsboro Road, (State Route 303), two miles east of Peninsula, Ohio.

Dated: December 22, 1976.

MERRILL D. BEAL,
Regional Director,
Midwest Region.

[FR Doc.77-708 Filed 1-6-77;8:45 am]

INDIANA DUNES NATIONAL LAKESHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 10:00 a.m., C.s.t., on Friday, January 21, 1977, at the Indiana Dunes National Lakeshore Tremont Visitor Center, Intersection of State Park Road and U.S. Highway 12, Chesterton, Indiana.

The Commission was established by Pub. L. 89–761 to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. Harry W. Frey (Chairman)
Mrs. Anna R. Carlson
Mr. John A. Hillenbrand II
Mr. William L. Lieber
Mr. Lawrence Miller
Mr. John R. Schnurlein
Mr. Norman E. Tufford
Mr. George H. Williams (Secretarial Consultant)

Matters to be discussed at this meeting include:

1. In-depth interpretation of Pub. L. 94–549, an amending act that provides for the expansion of the Lakeshore and other purposes.
2. Status of Lakeshore construction contracts.
3. Report on the Little Calumet River Basin Recreational Development Program.
4. Explanation of NPS/Northern Indiana Public Service Company study agreement regarding fly ash and other pollutants in Cowles Bog area of Lakeshore.
5. Land Acquisition Report.
6. Discussion of future role of Advisory Commission.

The meeting will be open to the public. It is expected that about 90 persons will be able to attend the session in addition to committee members. Interested persons may make written statements. Such requests should be made to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from James R. Whitehouse, Superintendent, Indiana Dunes National Lakeshore, Route 2, Box 139-A, Chesterton, Indiana 46304, telephone area code 219, 926–7561.

Minutes of the meeting will be available for public inspection three weeks after the meeting at the office of the Indiana Dunes National Lakeshore located at the intersection of State Park Road and U.S. Highway 12, Chesterton, Indiana.

Dated: December 20, 1976.

MERRILL D. BEAL,
Regional Director, Midwest Region, National Park Service.

[FR Doc.77-710 Filed 1-6-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-26]

CERTAIN SOLDIER-REMOVAL WICKS

Postponement of Hearing Date

Notice is hereby given that the date for the commencement of the hearing in this proceeding is postponed until January 19, 1977 at 10:00 a.m. The hearing will be held in Room 610 Bicentennial Building, 600 E Street, NW., Washington, D.C. and will continue daily until completed.

This hearing was originally scheduled to commence on January 11, 1977, by order of the undersigned Presiding Officer issued December 13, 1976. (41 FR 54998, December 16, 1976.) Certain facts regarding the respondents' status have been brought to the attention of the Presiding Officer which require the parties' review and perhaps comment by them. This postponement is being ordered to permit the parties to review such factual developments and to file whatever motions or responses to motions which they may deem appropriate. Accordingly, the Presiding Officer is taking under advisement the motions currently pending before him which relate to further extensions of time.

The Secretary shall serve a copy of this Notice upon all parties of record, and shall publish this Notice in the FEDERAL REGISTER.

Issued January 3, 1977.

Judge MYRON R. RENICK,
Presiding Officer.

[FR Doc.77-646 Filed 1-6-77;8:45 am]

GOVERNMENT IN THE SUNSHINE

Meeting

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on January 14, 1977, beginning at 9:30 a.m., in the Hearing Room of the United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436. The Commission plans to consider the following agenda items in open session:

1. Agenda for the week of January 24, 1977;
2. Minutes of December 28 and 30, 1976;
3. Reorganization;
4. Briefing by the staff on sugar (Inv. TA-201-16);
5. Memorandum from Mr. Wallington, Chief, Financial Management, dated December 28, 1976—1977 travel budget: recommendation that the statutory limitation on travel expenditures be raised;
6. Mushrooms (TA-201-17)—consideration of draft determination (see action jacket GC-76-162);
7. Any other items left over from previous agenda.

If you have any questions concerning the agenda for the January 14, 1977. Commission meeting, please contact the Secretary to the Commission at 202-523-0161. Access to documents to be considered by the Commission at the meeting is provided for in Subpart C of the Commission's rules (19 CFR 201.17-201.21).

On the authority of 19 U.S.C. 1335 and in conformity with proposed 19 CFR 201.39(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

Issued: January 4, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-647 Filed 1-6-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

FEDERAL SUPPLEMENT BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Availability of Federal Supplemental Benefits in the State of Arkansas

This notice announces the beginning of a new Federal Supplemental Benefit Period in the State of Arkansas, effective December 26, 1976.

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals will be up to 13 weeks or 26 weeks, depending upon the level of the rate of insured unemployment in the State.

There is a Federal Supplemental Benefit "on" indicator in a State for a week if the United States Secretary of Labor determines with respect to the State, that, (a) there is a State or National "on" indicator for the week, as determined for the purposes of payment of extended benefits under the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and (b) the employment security agency of the State has determined that the average rate of insured unemployment in the State for the period consisting of that week and the immediately preceding twelve weeks equalled or exceeded 5.0 percent. The Federal Supplemental Benefit Period actually begins with the third week following the week for which there is an "on" indicator, and lasts for a minimum period of not less than 26 weeks.

Similarly, an "off" indicator ending a Federal Supplemental Benefit Period occurs in a week when the Secretary of Labor determines that the average rate of insured unemployment (as determined by the State employment security agency) for the period consisting of that week and the immediately preceding twelve weeks is less than 5.0 percent. The Federal Supplemental Benefit Period actually ends with the third week after the week in which there is an "off" indicator, but not earlier than the end of the twenty-sixth week of the period.

The Secretary of Labor has determined under section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and 20 CFR 615.13(a), that there is a National "on" indicator in effect which is applicable to every State, as announced in the notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 7722. The employment security agency of the State of Arkansas has determined under the Act and 20 CFR 618.19(a)(2) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending December 11, 1976, and the immediately preceding twelve weeks equalled or exceeded 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19(a) and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "on" indicator in the State of Arkansas for the week ending on December 11, 1976, and that a Federal Supplemental Benefit Period therefore commenced in that State with the week beginning on December 26, 1976.

There will be a 5-per centum period in effect in the new Federal Supplemental Benefit Period, commencing at the beginning of the new period. During the 5-per centum period an individual who is eligible for Federal Supplemental Benefits will be entitled to a maximum amount of up to 13 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

In the event that a 6-per centum period subsequently takes effect in the new Federal Supplemental Benefit Period, because the rate of insured unemployment in the State has risen to an average of 6.0 percent or more over a period of thirteen weeks, the maximum amount of Federal Supplemental Benefits payable to an eligible individual will increase. In that event an eligible individual will be entitled to a maximum amount of Federal Supplemental Benefits of up to 26 times the individual's weekly benefit amount, or, if less, the balance in the individual's Federal Supplemental Benefit Account.

The State employment security agency will furnish a written notice of potential entitlement to Federal Supplemental Benefits to each individual who is an "exhaustee" (as defined in the Act and 20 CFR 618.5) of regular and extended benefits payable under State and Federal unemployment compensation laws, and to each individual who has a previously established Federal Supplemental Benefit Account in which there is any balance as of the beginning of the new Federal Supplemental Benefit Period. The State employment security agency also will furnish a written notice to each individual for whom a Federal Supplemental Benefit Account has been established, of the beginning or ending of a 6-per centum period in the new Federal Supplemental Benefit Period, and its effect on the individual's entitlement to Federal Supplemental Benefits.

There was a prior Federal Supplemental Benefit Period in Arkansas which terminated with the week ending on October 9, 1976, as announced in the notice published in the FEDERAL REGISTER on October 15, 1976, at 41 FR 45636. Immediately following the end of the prior Federal Supplemental Benefit Period, there was an additional eligibility period for each individual who qualified, which was to last for 13 weeks unless terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period. Because the new Federal Supplemental Benefit Period began prior to the end of the 13-week period, the individual additional eligibility periods terminated immediately prior to the beginning of the new benefit period.

Any individual who qualified for an additional eligibility period will be en-

titled to Federal Supplemental Benefits in the new Federal Supplemental Benefit Period, if there is any balance left in the individual's Federal Supplemental Benefit Account as of the beginning of the new period. The maximum amount payable to any of those individuals will be governed, as stated above, by whether a 5-per centum or a 6-per centum period is in effect and by the balance in each individual's Federal Supplemental Benefit Account.

Persons who believe they may be entitled to Federal Supplemental Benefits in the State of Arkansas, or who wish to inquire about their rights under this program, should contact the nearest State Employment Office of the Arkansas Department of Labor in their locality.

Signed at Washington, D.C., on January 4, 1977.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.77-657 Filed 1-6-77;8:45 am]

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Appointment of Members

This is to announce the appointment of members to the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

The membership of the Committee and the categories represented are as follows:

EMPLOYEE

Melvin J. Boyle, Assistant to the Internahood of Electrical Workers, 1125 Fifteenth Street NW., Washington, D.C. 20005.

Paul H. Connelley, Safety Director, United Brotherhood of Carpenters and Joiners of America, 101 Constitution Avenue, Washington, D.C. 20001.

Robert E. P. Cooney, General Vice President, International Association of Bridge, Structural and Ornamental Iron Workers, 400 First Street, N.W., Washington, D.C. 20001.

Robert M. Farrell, Safety Director, International Union of Operating Engineers, 6200 Joliet Road, Countryside, Illinois 60525.

Joe M. Short, Director, Education and Training, Laborers International Union of North America, 905 Sixteenth Street, N.W., Washington, D.C. 20006.

EMPLOYER

Wayne L. Christensen, Corporate Safety Director, The Rust Engineering Company, P.O. Box 101, Birmingham, Alabama 35201.

Richard L. Daley, Director of Safety and Environmental Services, Morrison-Knudsen Company, Post Office Box 7808, Boise, Idaho 83729.

Robert E. Linck, President, Warren-Ehret-Linck Company, Luzerne and E Streets, Philadelphia, Pennsylvania, 19124.

Frederick M. Livingston, Jr., Corporate Safety Director, Turner Construction Company, 150 East 42nd Street, New York, New York 10017.

Harold E. Van Werden, President, Van Werden Construction Company, Inc., 2928 Lovers Lane, Kalamazoo, Michigan 49001.

PUBLIC

Michael S. Baram, Associate Professor, Civil Engineering, Massachusetts Institute of Technology, Building 48, Room 335, Cambridge, Massachusetts 02139.

Fred L. Ottoboni, Coordinating Engineer, State of California Department of Health, 2151 Berkeley Way, Berkeley, California 94704.

STATE

Clifford W. Farmer, Supervising Engineer, Construction, California State Department of Industrial Relations, 3986 Lonesome Pine Road, Redwood City, California 94102.

E. I. "Bud" Malone, Commissioner, Department of Labor and Industry, State of Minnesota, Space Center Bldg., 5th Floor, 444 Lafayette Road, St. Paul, Minnesota, 55101.

FEDERAL

Thomas L. Anania, Chief, Industrial Hygiene Services, National Institute for Occupational Safety and Health, 514 Post Office Building, Cincinnati, Ohio 45202.

Messrs, Baram, Christensen, Linck and Ottoboni are new members; all others are reappointments.

The members were selected on the basis of their experience and competence in the field of construction safety and health and will serve until June 30, 1978. Mr. Clifford W. Farmer will serve as Committee Chairman.

Signed at Washington, D.C. this 20th day of December 1976.

W. J. USERY Jr.,
Secretary of Labor.

[FR Doc.77-659 Filed 7-6-77;8:45 am]

Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

EMPLOYEE BENEFIT PLANS

[Application Nos. D-183, D-301, D-419, D-459, D-466 and D-473]

Notice of Pendency of Proposed Class Exemption Requested by the National Association of Pension Consultants and Administrators, Inc., the Investment Company Institute, and Others.

Notice is hereby given of the pendency before the Department of Labor (the Department) and the Internal Revenue Service (the Service) of a proposed class exemption from the restrictions of sections 406(a)(1) (A) through (D) and 406(b) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code), by reason of section 4975(c)(1) of the Code. The pending class exemption was requested in applications submitted by the National Association of Pension Consultants and Administrators, Inc. (NAPCA) (D-183); jointly by the American Council of Life Insurance (ACLI) [1], the National Association of Life Underwriters (NALU) and the Association for Advanced Life Underwriting (AALU) (D-301); the Investment Company Institute (ICI) (D-419 and D-466); jointly by Marsh & McLennan Companies, Inc. and Johnson & Higgins (M & M) (D-459); and jointly by Investors Diversified Services, Inc. and American General Capital Distributors, Inc. (D-473).

The pending class exemption would exempt from the prohibited transactions provisions: (1) The receipt of sales commissions from an insurance company, directly or indirectly, by an insurance agent or broker or a pension consultant [2] in connection with the purchase of insurance contracts or annuities with employee benefit plan assets when such insurance agent or broker or pension consultant is a service provider or a fiduciary with respect to the plan; (2) the receipt of sales commissions by a mutual fund principal underwriter in connection with the purchase of mutual fund shares with plan assets when such principal underwriter is a plan fiduciary or service provider; (3) the execution by an insurance agent or broker or a pension consultant of the purchase of insurance with plan assets from an insurance company when such insurance agent or broker or pension consultant is a service provider or fiduciary with respect to the plan and, in connection with the execution of such transaction, is acting as the agent of the insurance company; (4) the purchase of insurance with plan assets from an insurance company which is a party in interest or disqualified person (including a fiduciary) with respect to the plan solely by reason of providing services, directly or indirectly, to the plan (e.g., in connection with an insurance company-sponsored master or prototype plan which has been adopted as the plan) or by reason of a relationship described in section 3(14) (G), (H) or (I) of the Act or section 4975(e)(2) (G), (H) or (I) of the Code to an insurance agent or broker or pension consultant who provides services to or is a fiduciary with respect to the plan; and (5) the purchase of mutual fund shares with plan assets from, or the sale of mutual fund shares to, a principal underwriter with respect to the mutual fund, where the principal underwriter or mutual fund, or both, are parties in interest or disqualified persons (including fiduciaries) with respect to the plan by reason of providing services, directly or indirectly, to the plan (e.g., in connection with a mutual fund-sponsored master or prototype plan which is adopted as the plan).

The applications for class exemption were filed pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the proce-

[1] The American Council of Life Insurance is the successor to the American Life Insurance Association.

[2] All references to the terms "insurance agent or broker", "pension consultant", "insurance company", "principal underwriter", "fiduciary" and "service provider" include such persons and any affiliates thereof. The term "affiliate" is defined in section IV (d) of the pending class exemption, and would include, for example, an employee of an insurance agency or pension consulting firm or a corporation of which an insurance agent or pension consultant is an employee.

dures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75–26, 1975–1 C.B. 722.

Numerous applications have also been received for individual exemptions covering transactions of the type described in this proposed class exemption. All such transactions will be exempted if they satisfy the terms and conditions of the proposed class exemption. As stated in section 3.04 of ERISA Proc. 75–1 and Rev. Proc. 75–26, an application for an individual exemption will not ordinarily be considered separately if a class exemption which may encompass the transaction described in the application for an individual exemption is under consideration by the Department and the Service. Accordingly, the agencies are notifying directly each applicant for an individual exemption of the fact that such applicant's application is not being considered separately from this proposed class exemption, that such application will ordinarily be closed, and, therefore, that such applicant's comments with respect to this pending class exemption are sought by the agencies.

PREAMBLE

Summary of representations. The applications contain representations with regard to the pending class exemption, which are summarized below. Interested persons are referred to the applications on file with the Department and the Service for the complete representations of the applicants.

Pension consultants. The applications submitted by NAPCA and by Marsh & McLennan Companies, Inc. and Johnson & Higgins request class exemptions to permit pension consultants who are fiduciaries with respect to plans (as defined in section 3(21) of the Act and section 4975(e)(3) of the Code) to receive commissions from insurance companies in connection with the purchase of insurance by such plans. The applicant's represent that pension consultants provide a wide variety of administrative, consulting and advisory services to plans. These services include, among others; advice on the cost of various types of benefits; advice on the structure of plan management and operations; advice on the types of funding media available to provide particular plan benefits; actuarial evaluations; designing funding media, plan investment objectives and policies, administrative policies, forms, etc.; and numerous administrative support services. The provision of some of these services in individual cases could cause a pension consultant to become a plan fiduciary.

Customarily, pension consultants are compensated for the provision of their services to plans through the receipt of fees from plans, plan sponsors or other persons or by means of the receipt of initial and renewal sales commissions on the sale of insurance products to such plans. The applicants represent that if and when pension consultants are plan fiduciaries, a question exists whether the receipt of insurance sales commissions by such persons violates section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code, which prohibit plan fiduciaries from receiving consideration for their own personal accounts from any party (e.g., an insurance company) dealing with the plan in connection with a transaction involving plan assets. A question also exists whether such a pension consultant, who is also a plan fiduciary, would be in violation of section 406(b)(1) and (2) of the Act and section 4975(c)(1)(E) of the Code when acting as agent of an insurance company in connection with the purchase of insurance by the plan. Section 406(b)(1) of the Act and section 4975(c)(1)(E) of the Code prohibit a plan fiduciary from dealing with the income or assets of the plan in his own interest or for his own account. Section 406(b)(2) of the Act prohibits a plan fiduciary from representing a party whose interests are adverse to the interests of the plan or its participants and beneficiaries in connection with a transaction involving the plan.

The applicants further represent that the provision of services to plans by pension consultants is exempt from the prohibited transaction provisions pursuant to section 508(b)(2) of the Act and section 4975(d)(2) of the Code, and that the receipt of insurance sales commissions, and the sale of insurance to plans, by most pension consultants when they are plan fiduciaries, is exempt until June 30, 1977 pursuant to the transitional rules of sections 414(c)(4) and 2003(c)(2)(D) of the Act, as interpreted in ERISA IB 75–1 and IRS TIR–1329 (issued December 31, 1974).

The applicants state that they believe that if their requested exemptions are not granted, the normal business practices of pension consultants will be restricted, and that this will result in a constriction in the variety of consulting and administrative services that would be available to plans. The applicants represent that this would be highly disruptive of plan operations and would lead to increased plan administrative and operating costs.

Insurance agents and brokers. The applications submitted by NAPCA, M & M, and jointly by the ACLI, NALU and AALU request a class exemption to permit life insurance agents and brokers to continue to sell insurance to plans with respect to which such agents or brokers are fiduciaries or otherwise parties in interest or disqualified persons by reason of the consultative and advisory services performed for plans by such agents or brokers.

In this connection, the applicants have also requested that the Department and the Service rule that the normal sales presentation and recommendations made by an insurance agent or broker to a plan or a plan fiduciary will not be considered to constitute the rendering of investment advice for a fee so as to classify such agent or broker as a fiduciary.[*] However, the applicants represent that, even if their requested ruling is issued, the consultative or advisory services performed for plans by insurance agents and brokers are such that in particular cases the agent or broker would become a plan fiduciary.

In this regard, the applicants represent that insurance agents and brokers customarily provide a variety of administrative and consultative services to plans, besides the sale of insurance products. Among other things, these services include: describing available funding media; advice on procedures for obtaining Service approval of plans; communicating plan details to employees and obtaining necessary employee information for initial plan operation; actuarial services; preparation of plan reports and plan operating procedures; and advice on termination procedures. If the plan is not funded through insurance company products, the agent or broker will normally be compensated through the payment of a fee. If insurance products are involved, the agent or broker is fully or partially compensated through commissions on the sale of insurance to the plan. Such commissions are paid by the insurance companies whose products are sold to the plan.

The applicants further represent that where the agent or broker is a plain fiduciary, such insurance sales commissions could be considered to constitute consideration for the agent's or broker's own personal account from a party (i.e., the insurance company) dealing with the plan in connection with a transaction involving the assets of the plan, in violation of section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code. In addition, such agent or broker could be deemed to be self-dealing in violation of section 406(b)(1) of the Act and 4975(c)(1)(E) of the Code and to be acting on behalf of an adverse party in connection with such transactions in contravention of section 406(b)(2) of the Act.

Although the applicants state that they believe that many of the "prohibited transactions" described above are exempt from the prohibitions and excise taxes of the Act and the Code for the period from January 1, 1975 through June 30, 1977 by reason of the transitional rules of sections 414(c)(4) and 2003(c)(2)(D) of the Act, they represent that a class exemption is necessary to permit these transactions to continue subsequent to June 30, 1977. In addition, because the transitional rules of section 414(c)(4) and 2003(c)(2)(D) of the Act are not available for agents and brokers who are not considered to have furnished the type of services involved as of June 30, 1974,

[*] For a discussion of this question, see the section of the Preamble entitled "Definition of Fiduciary," infra. reports and plan operating procedures; and advice on termination procedures. If the plan is not funded through insurance company products, the agent or broker will normally be compensated through the payment of a fee. If insurance products are involved, the agent or broker is fully or partially compensated through commissions on the sale of insurance to the plan. Such commissions are paid by the insurance companies whose products are sold to the plan.

the applicants have requested that the pending class exemption be effective as of January 1, 1975, the effective date of the prohibited transaction provisions of the Act and the Code.

In support of their exemption request, the applicants represent that, without an exemption, insurance agents and brokers will be precluded from receiving their customary form of compensation for the furnishing of services to plans (i.e., sales commissions) and would, therefore, be compelled to curtail the provision of many of the services that they currently provide to plans. The applicants contend that these developments would severely disrupt long established business practices and relationships and would create hardships for plans, plan sponsors and plan participants. The applicants note that such hardships would be most severe for insured plans of small employers which have commonly relied heavily on the services of insurance agents and brokers because the limited resources of such plans do not permit them to retain consultants.

For essentially the same reasons outlined above, the applicants have also requested an exemption to permit an insurance company to sell insurance to a plan when such insurance company is a party in interest or disqualified person (including a fiduciary) with respect to the plan by reason of providing services, directly or indirectly, to the plan or by a reason of a relationship described in section 3(14) (G), (H) or (I) of the Act or section 4975(e)(2) (G), (H) or (I) of the Code to an insurance agent or broker who provides services to or is a fiduciary with respect to the plan.

Mutual fund principal underwriters. On October 31, 1975, notice was published in the FEDERAL REGISTER (40 FR 50845) of the granting of class exemptions (Prohibited Transaction Exemption 75–1) for certain transactions involving plans and certain broker-dealers, reporting dealers and banks. One of these class exemptions permits, among other things, the purchase and sale of securities, including mutual fund shares, by a plan from or to a broker-dealer which is a party in interest or disqualified person (other than a fiduciary) with respect to the plan by virtue of providing services to the plan. This class exemption also covers, as of January 1, 1975, the purchase and sale of mutual fund shares by a plan from or to a broker-dealer which is a plan fiduciary, provided that such broker-dealer is not a principal underwriter for, or affiliated with, such mutual fund, and the receipt of commissions by such fiduciary/broker-dealer is in connection with the purchase of mutual fund shares by plans.

The applications submitted by the ICI and by Investors Diversified Services, Inc. and American General Capital Distributors, Inc., request a class exemption to permit mutual fund principal underwriters (and their affiliates) to purchase or sell shares of the mutual fund from and to plans with respect to which such principal underwriters are fiduciaries, and to permit such fiduciary principal underwriters (and their affiliates) to receive sales commissions in connection with such plan purchases of mutual fund shares. The requested exemption would cover not only the prohibitions of sections 406(b) of the Act and section 4975 (c)(1) (E) and (F) of the Code, but also the provisions of section 406(a)(1) (A) through (D) of the Act and sections 4975(c)(1) (A) through (D) of the Code, which prohibit, among other things, the sale of property between a plan and a party in interest or disqualified person. The applicants represent that if their requested exemption is granted, it will remove unwarranted discrimination between the sale of mutual fund shares effected by broker-dealers who are plan fiduciaries and who are unrelated to mutual funds (which sales are covered by Prohibited Transaction Exemption 75–1) and sales made directly by mutual fund principal underwriters who are plan fiduciaries.

In this regard, the applicants have made a request, similar to that made in the NAPCA, M&M and ACLI, NALU and AALU applications, that the Department and the Service rule that the normal sales presentation and recommendations made by a mutual fund principal underwriter or an employee thereof to a plan or a plan fiduciary will not be considered to constitute the rendering of investment advice for a fee so as to classify such person as a fiduciary.

Notwithstanding the issuance of such a ruling, the applicants represent that a class exemption is still necessary for those situations in which a mutual fund principal underwriter or an affiliate thereof is a plan fiduciary. In support of this request, the applicants note that the distribution of mutual fund shares to plans and other investors through principal underwriter direct sales forces has been a standard and customary practice for over forty years and that the activities of mutual funds, their investment advisers and their principal underwriters, and the sale of mutual fund shares to investors, is closely regulated by the Securities and Exchange Commission under the Investment Company Act of 1940, the Securities Act of 1933, the Investment Advisers Act of 1940, and the Securities Exchange Act of 1934.

The applicants also represent that mutual fund principal underwriter direct sales forces normally recommend mutual fund shares as the funding medium for small employee benefit plans which can neither afford to retain professional investment managers nor otherwise obtain diversification of assets. These sales forces often recommend and sell mutual fund shares to employee benefit plans which are not readily serviced by regular retail broker-dealers or other financial institutions. If the requested exemption is not granted, the applicants represent that these plans would be foreclosed from continuing to receive these services, and that this would result in substantial hardship and economic loss for such plans.

For essentially the same reasons outlined above, the ICI has also requested, in Application D–466, an interpretation of the applicable provisions of the Act and the Code or, in the alternative, an exemption to permit the purchase or sale of mutual fund shares from or to a principal underwriter with respect to the mutual fund, where the principal underwriter or mutual fund, or both, may be parties in interest or disqualified persons (including fiduciaries) with respect to the plan because they may be considered to be providing services, directly or indirectly, to the plan (e.g., in connection with a mutual fund-sponsored master or prototype plan which is adopted as the plan).

Regarding Application D–466 filed by the ICI, and the joint application of the ACLI, NALU and AALU insofar as it relates to the question of whether a sponsor of a master or prototype plan may be considered to be a service provider or fiduciary with respect to the plan, the Department and the Service wish to emphasize that the proposal of a class exemptions to permit the purchase or sale of mutual fund shares or insurance contracts or annuities from or to the principal underwriter or insurance company when the principal underwriter, mutual fund or insurance company is the sponsor of the master or prototype plan is not intended to reflect a decision on this question by the Department and the Service. Rather, the class exemption, to the extent that it covers the master and prototype plan situation, is proposed, in part, to eliminate the adverse effects under the prohibited transaction provisions for plans and their participants and beneficiaries that may be caused by any uncertainties regarding the resolution of this question. Thus, to the extent that an insurance company, mutual fund or principal underwriter of a mutual fund may be considered to be a service provider or fiduciary as a result of services performed in connection with a master or prototype plan that it sponsors, the exemption provides relief from the prohibited transaction provisions of section 406 of the Act and section 4975(c)(1) of the Code for the purchase of insurance contracts or annuities from the insurance company or the purchase or sale of mutual fund shares from or to the mutual fund or principal underwriter.

Definition of "Fiduciary." Several of the applicants for class exemption have requested that the Department and the Service rule that the normal sales presentation and recommendations made to a plan or a plan fiduciary by an insurance agent or broker, pension consultant, or a mutual fund principal underwriter, or an employee thereof, will not be considered to constitute the rendering of investment advice for a fee so as to classify such agent or broker, pension consultant, or principal underwriter, or employee thereof, as a "fiduciary." Section 3(21)(A)(ii) of the Act and section 4975 (e)(3)(B) of the Code define the term "fiduciary" with respect to a plan as a person who "renders investment advice

for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so."

By notices published in the FEDERAL REGISTER (40 FR 50840, 50842) on October 31, 1975, the Service and the Department adopted regulations, 26 CFR 54.4975-9(c) and 29 CFR 2510.3-21(c), clarifying the applicability of the definition of the term "fiduciary" to persons who render investment advice to plans. As here relevant, those regulations provide:

(c) *Investment Advice.* (1) A person shall be deemed to be rendering "investment advice" to an employee benefit plan * * * only if:

(i) Such person renders advice to the plan as to the value of securities or other property, or makes recommendations as to the advisability of investing in, purchasing, or selling securities or other property; and

(ii) Such person either directly or indirectly (e.g., through or together with any affiliate)—

(A) Has discretionary authority or control, whether or not pursuant to agreement, arrangement or understanding, with respect to purchasing or selling securities or other property for the plan; or

(B) Renders any advice described in paragraph (c)(1)(i) of this section on a regular basis to the plan pursuant to a mutual agreement, arrangement or understanding, written or otherwise, between such person and the plan or a fiduciary with respect to the plan, that such services will serve as a primary basis for investment decisions with respect to plan assets, and that such person will render individualized investment advice to the plan based on the particular needs of the plan regarding such matters as, among other things, investment policies or strategy, overall portfolio composition, or diversification of plan investments.

The advice and recommendations made to plans and plan fiduciaries by insurance agents and brokers, pension consultants, and mutual fund principal underwriters (or their employees) regarding plan purchases of insurance contracts or annuities or mutual fund shares come within the type of advice described in paragraph (c)(1)(i) of the regulations cited above and could constitute "investment advice" so as to classify the persons who furnish such advice as "fiduciaries" if it is rendered under the circumstances described in either paragraph (c)(1)(ii)(A) or paragraph (c)(1)(ii)(B) of such regulations. A determination whether such advice constitutes "investment advice" under these regulations and section 3(21)(A)(ii) of the Act and section 4975(e)(3)(B) of the Code can be made only on a case-by-case basis.

In addition, the Department and the Service stated in the preamble sections of the notices announcing the adoption of the regulations that, until a more definitive statement is issued, the phrase "fee or other compensation, direct or indirect" for the rendering of investment advice for purposes of section 3(21)(A)(ii) of the Act and section 4975(e)(3)(B) of the Code should be deemed to include all fees or other compensation incidental to the transaction in which the investment advice to the plan has been rendered or will be rendered, and may therefore include insurance and mutual fund sales commissions. The Department and the Service have not modified or revised this position, notwithstanding the contrary views expressed in several of the applications for class exemption.

Exemption for services. Section 408(b)(2) of the Act and section 4975(d)(2) of the Code provide an exemption from the prohibited transaction provisions for, as here relevant, the provision of services to plans by parties in interest and disqualified persons if certain conditions are met. By notices published in the FEDERAL REGISTER on July 30, 1976 (41 FR 31838, 31874), the Service and the Department proposed regulations, 26 CFR 54.4975-6 and 29 CFR 2550.408b-2, designed to clarify the scope and conditions of these statutory exemptions.

Among other things, the proposed regulations indicate that the statutory exemptions cover all parties in interest and disqualified persons, including plan fiduciaries. Thus, the services provided to plans by persons who are insurance agents or brokers, pension consultants, or mutual fund principal underwriters would be covered by the exemption set forth in section 408(b)(2) of the Act and section 4975(d)(2) of the Code, whether or not such persons are plan fiduciaries, if the arrangements under which such persons provide services to plans satisfy the provisions of the regulations under sections 408(b)(2) of the Act and 4975(d)(2) of the Code. To the extent that an insurance agent or broker, pension consultant, or mutual fund principal underwriter is not a fiduciary, he or she may rely on the statutory exemption contained in sections 408(b)(2) of the Act and 4975(d)(2) of the Code or on this exemption, if granted.

The proposed regulations also provide that the statutory exemption covers only the furnishing of services and not the prohibitions against certain fiduciary conduct described in section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code that might be present in the arrangement for the furnishing of services to a plan. The proposed regulations indicate, however, that if the arrangements for the provision of services to a plan by a fiduciary are arranged and approved on behalf of the plan by a second fiduciary who is independent of and unrelated to the fiduciary providing the services, the fiduciary/service provider would not be considered to be dealing with plan assets in his own interest or for his own account in contravention of section 406(b)(1) of the Act and section 4975(c)(1)(E) of the Code. Interested persons are directed, however, to the notice of hearing on the proposed regulations under section 408(b)(2) of the Act and section 4975(d)(2) of the Code and this pending class exemption, which notice appears elsewhere in this issue of the FEDERAL REGISTER, for a further explanation of the views of the Department and the Service with respect to the effect of the approval of a second fiduciary in situations where the fiduciary/service provider might be considered to be dealing with plan assets in his own interest or for his own account.

In connection with this notice of pendency of exemption, the Department and the Service wish to emphasize that satisfaction of the conditions of the pending class exemption will not permit a breach of the general fiduciary responsibility provisions of section 404 of the Act or excuse a violation of the "exclusive benefit of employees" requirement contained in section 401(a) of the Code. Such breach or violation might occur, for example, if a fiduciary with respect to the plan recommends or causes the plan to select a funding medium or investment which, under the particular circumstances, is not suitable for the plan. Thus, in the circumstances of a given case, an insurance agent who is a fiduciary with respect to a plan might be found to have breached his fiduciary responsibilities under section 404 of the Act and to have caused the plan to violate section 401(a) of the Code if he caused the plan to purchase individual insurance or annuity policies or other high commission products when similar benefits or protections could have been secured at a lesser cost to the plan (i.e., for lower premiums) under a group policy.

Further, while receipt of the disclosure required by the conditions of the exemption set forth below is expected to aid plan fiduciaries to evaluate recommendations made by persons selling insurance or mutual fund shares to the plan, such fiduciaries must still determine that the purchase of any insurance product or mutual fund shares for the plan satisfies the general fiduciary responsibility provisions of section 404(a)(1) of the Act. Such determination would require the evaluation of various factors not addressed in this exemption, such as, for example, whether the insurance product or mutual fund shares are an appropriate funding medium or investment for the particular plan involved.

General information. The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the

employer maintaining the plan and their beneficiaries.

(2) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department and the Service must find that the exemption is administratively feasible, in the interests of the plan or plans and of their participants and beneficiaries, and protective of the rights of participants and beneficiaries of such plan or plans.

(3) The pending exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) If granted, the pending class exemption will be applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

(5) The applications for exemption referred to herein are available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C., 20210 and in the Internal Revenue Service National Office Reading Room, Room 1565, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

All interested persons are invited to submit written comments on the pending class exemption set forth herein. In order to receive consideration, such comments should be received by the Department of Labor on or before January 27, 1977.

By notice appearing elsewhere in this issue of the FEDERAL REGISTER, the Department and the Service have announced that a public hearing will be held on February 14, 1977 with respect to the proposed class exemption and with respect to proposed regulations of the Department and the Service under sections 408(b)(2), 408(b)(4), 408(b)(6), 408(c)(2) and 414(c)(4) of the Act and sections 4975(d)(2), (4), (6) and (10) of the Code and 2003(c)(2)(D) of the Act, published in the FEDERAL REGISTER on July 30, 1976 (41 FR 31838, 31874). These proposed regulations relate to the provision of services and office space to plans, the investment of plan assets in bank deposits, the provision of bank ancillary services to plans, and the transitional rule for the provision of services to plans until June 30, 1977.

All written comments on the pending class exemption (at least six copies) should be addressed to Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room C-4526, Washington, D.C., 20216, Attention: Application No. D-183. All such comments will be made part of the record, and will be available for public inspection at the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20210, and at the Internal Revenue Service National Office Reading Room, Room 1565, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

PENDING EXEMPTION

Based on the applications referred to above, the Department and the Service have under consideration the granting of the following class exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722:

Section I—Introduction. Effective January 1, 1975, the restrictions of sections 406(a)(1)(A) through (D) and 406(b) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code, shall not apply to the transactions described in section II of this exemption, provided that the conditions set forth in section III of this exemption are met.

Section II—Transactions. (a) The receipt of sales commissions from an insurance company, directly or indirectly, by an insurance agent or broker or a pension consultant in connection with the purchase of insurance contracts or annuities with plan assets when such insurance agent or broker or pension consultant is a service provider or fiduciary with respect to the plan.

(b) The receipt of sales commissions by a principal underwriter for an investment company registered under the Investment Company Act of 1940 (hereinafter referred to as a "mutual fund") in connection with the purchase of mutual fund shares with plan assets when such principal underwriter is a fiduciary or service provider with respect to the plan.

(c) The execution by an insurance agent or broker or pension consultant of a transaction for the purchase of insurance contracts or annuities with plan assets from an insurance company when such insurance agent or broker or pension consultant is a fiduciary or service provider with respect to the plan and, in connection with the execution of such transaction, is acting as the agent of the insurance company.

(d) The purchase of insurance contracts or annuities with plan assets from an insurance company which is a party in interest or disqualified person (including a fiduciary) with respect to the plan solely by reason of providing services directly or indirectly to the plan, or which, by reason of a relationship described in section 3(14)(G), (H) or (I) of the Act or section 4975(e)(2)(G), (H) or (I) of the Code to an insurance agent or broker or a pension consultant, is a service provider or a fiduciary with respect to the plan.

(e) The purchase of mutual fund shares with plan assets from, or the sale of such shares to, a mutual fund or a principal underwriter with respect to a mutual fund, when such mutual fund or principal underwriter, or both, are parties in interest or disqualified persons (including fiduciaries) with respect to the plan by reason of providing services, directly or indirectly, to the plan.

Section III—Conditions. (a) The insurance agent or broker, pension consultant, insurance company, mutual fund or principal underwriter referred to in any of the paragraphs of section II above does not have any authority on behalf of the plan to retain or terminate the provision of services of such insurance agent or broker, pension consultant, insurance company, mutual fund or principal underwriter for the plan.

(b) Each of the transactions described in section II above, and any transactions in connection therewith for the purchase of insurance contracts or annuities or mutual fund shares with plan assets or the sale of mutual fund shares, is:

(1) On terms at least as favorable to the plan as an arm's-length transaction with an unrelated party would be; and

(2) Prior to the execution of the transaction, approved in writing on behalf of the plan by a fiduciary who is not an affiliate of the insurance agent or broker, pension consultant, insurance company, mutual fund, mutual fund principal underwriter, or mutual fund investment adviser and who does not receive, directly or indirectly, any compensation or other consideration for his or her own personal account in connection with any such transaction. Such approval must be based, in part, on the information disclosed pursuant to paragraph (e) of this section.

(c) The total of all fees and other consideration received by such insurance agent or broker, insurance company, pension consultant, or mutual fund principal underwriter for the rendering of services to the plan, plus commissions received in connection with the purchase of insurance contracts or annuities or mutual fund shares with plan assets, is not in excess of "reasonable compensation" within the contemplation of sections 408(b)(2) and 408(c)(2) of the Act and sections 4975(d)(2) and 4975(d)(10) of the Code.

(d) With respect to any purchase of insurance contracts or annuities or mutual fund shares referred to in paragraphs (a), (b) and (c) of section II above, the insurance agent or broker, pension consultant, or mutual fund principal underwriter referred to in any of such paragraphs:

(1) Is a party in interest or disqualified person (including a fiduciary) with respect to the plan solely by reason of the provision of consultative, administrative or investment advisory services to the plan; and

(2) Effects the purchase of insurance or mutual fund shares in the ordinary course of its business as an insurance agent or broker, pension consultant, or mutual fund principal underwriter.

(e) With respect to any purchase of insurance contracts or annuities or mutual fund shares referred to in paragraphs (a), (b) and (c) of section II above, or any contract or agreement for such a purchase which is executed more than 60 days after the date of granting of this exemption, the insurance agent or brok-

er, pension consultant or mutual fund principal underwriter provides to the fiduciary referred to in paragraph (b)(2) of this section, prior to the written approval described in paragraph (b)(2), written disclosure of the following information and such fiduciary acknowledges receipt of such written disclosure in writing:

(1) The names of all insurance companies and mutual funds with respect to which such insurance agent or broker, pension consultant or mutual fund principal underwriter is an affiliate, and a description of the nature of such affiliation.

(2) The amount of any sales commissions that will be received, directly or indirectly, by the soliciting agent in connection with the purchase of any insurance contracts or annuities or mutual fund shares which are recommended by the soliciting agent for purchase with plan assets. In the case of insurance, commissions should be disclosed as a percentage of gross premium payments for both first-year sales commissions and renewal commissions, if any. In the case of mutual funds, sales commissions should be disclosed as a percentage of the dollar amount of the plan't investment.

(3) With respect to any insurance contracts or annuities or mutual fund shares which are recommended by the soliciting agent, (i) if the soliciting agent has received any special instructions with respect to soliciting purchases of such contracts, annuities or shares (other than with respect to describing the characteristics of such contracts, annuities or shares) from any insurance agent or broker, pension consultant, insurance company, mutual fund, or principal underwriter, a description of such instructions, (ii) if the soliciting agent has a special incentive arrangement (other than the receipt of sales commissions) in connection with the sale of such insurance contracts or annuities or mutual fund shares, a statement that the soliciting agent has such an arrangement and, if requested by the aforementioned fiduciary, a description of such arrangement, and (iii) if the soliciting agent or an insurance agent or broker, pension consultant or mutual fund principal underwriter for which the soliciting agent is an employee has, for any of its three taxable years prior to the making of such recommendation by the soliciting agent, received more than 20 percent of its gross commissions from all sales of insurance or mutual fund shares for any such year from the insurance company or mutual fund whose insurance contract, annuity or shares are recommended, the soliciting agent must disclose such facts.

Once the disclosures required by this paragraph (e) have been made to the fiduciary described in paragraph (b)(2) of this section with respect to the purchase of insurance contracts or annuities or mutual fund shares, no further disclosure need be made with respect to additional purchases of such contracts, annuities, or shares with plan assets within three years subsequent to such disclosure, unless the commission or special incentive arrangement with respect to such additional sales of such contracts, annuities or shares is materially different from that for which the disclosure was made, or the contract, annuity or mutual fund is materially different from that for which the disclosure was made.

(f) Such records as are necessary to enable the persons described in paragraph (g) of this section to determine whether the conditions of this exemption have been met shall be maintained for a period of six years from the date of any transaction described in section II above, except that:

(1) This paragraph (f) and paragraph (g) below shall not apply to transactions effected prior to 60 days subsequent to the date of granting of this exemption; and

(2) A prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the plan fiduciaries, or of such insurance agent or broker, pension consultant, mutual fund principal underwriter or insurance company, such records are lost or destroyed prior to the end of such six-year period.

For transactions described in paragraphs (a) and (c) of section II above, such records shall be maintained by the insuranace agent or broker or pension consultant; for transactions described in paragraphs (b) and (e) of section II above, such records shall be maintained by the principal underwriter of the mutual fund; and for transactions described in paragraph (d) of section II above, such records shall be maintained by the insurance company.

(g) Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (f) of this section are unconditionally available for examination during normal business hours by duly authorized employees or representatives of (1) the Department ofof Labor, (2) the Internal Revenue Service, (3) plan participants and beneficiaries, (4) any employer of plan participants and beneficiaries, and (5) any employee organization any of whose members are covered by the plan.

Section IV—Definitions. For purposes of this exemption:

(a) The term "principal underwriter" is defined in the same manner as that term is defined in section 2(a)(29) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(29)).

(b) The terms "fiduciary", "service provider", "insurance agent or broker," "pension consultant", "insurance company", "mutual fund", and "principal underwriter" include such persons and any affiliates thereof.

(c) The term "soliciting agent" means the individual who solicits the purchase of the insurance contract or annuity or the purchase of mutual fund shares.

(d) The term "affiliate" of a person includes:

(1) Any person directly or indirectly controlling, controlled by, or under common control with such person;

(2) Any officer, director, partner, employee or relative of such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(e) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(f) the term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(g) The term "special incentive arrangement" means an arrangement whereby consideration is available or payable (directly or indirectly) to a soliciting agent because of the insurance agent's or broker's, pension consultant's, or mutual fund principal underwriter's contractual relationship with an insurance company or mutual fund, and not an arrangement whereby consideration is available to any soliciting agent who sells a product of that insurance company or mutual fund.

Signed at Washington, D.C., this 22d day of December, 1976.

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc.76-38233 Filed 12-28-76;8:45 am]

(NOTE.—This document is being reprinted entirely without change from the issue of Wednesday, December 29, 1976.)

Office of Federal Contract Compliance Programs

FEDERAL ADVISORY COMMITTEE FOR HIGHER EDUCATION EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

Meeting

On January 28, 1976, The Secretary of Labor announced in the FEDERAL REGISTER (41 CFR 4081) the establishment of the Federal Advisory Committee for Higher Education Equal Employment Opportunity Programs. The first meeting of this Advisory Committee was held on February 27, 1976 (41 CFR 5880).

Pursuant to the Federal Advisory Committee Act (5 U.S.C. App. I, Supp. II, 1972), notice is hereby given that the ninth meeting of the above committee has been scheduled for 10:00 A.M. on January 31, 1977, in Room S-3215 (A.B.C.), New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

The agenda for the January 31, meeting calls for the continued effectiveness of Affirmative Action Programs in Higher Education.

The meeting will be open to the public. Interested persons wishing to file documents or other material with the Committee for its consideration may do so by sending them to the Committee's

Executive Secretary: David G. Speck, Executive Secretary, Office of Federal Contract Compliance Programs, Federal Advisory Committee for Higher Education Equal Employment Opportunity Programs, New U.S. Department of Labor Building, Room C-3325, Washington, D.C. 20210.

Signed at Washington, D.C. this 4th day of January, 1977.

DR. DAVID G. SPECK,
Executive Secretary.

[FR Doc.77-658 Filed 1-6-77;8:45 am]

Office of the Secretary

[TA-W-1,458]

ALLIED CHEMICAL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Semet-Solvay Division, Detroit Mich., of Allied Chemical Corp., Morristown, New Jersey (TA-W-1,458). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with coke produced by Allied Chemical Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-660 Filed 1-6-77;8:45 am]

[TA-W-1,454]

ARMCO STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Sand Springs Works, Sand Springs, Oklahoma of Armco Steel Corporation, Middletown, Ohio (TA-W-1,454). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with coke produced by Armco Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-661 Filed 1-6-77;8:45 am]

[TA-W-1,455]

ARMCO STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Marion Works, Marion, Ohio, of Armco Steel Corporation, Middletown, Ohio (TA-W-1,455). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with carbon steel bars, rebars, fenceposts & sign posts produced by Armco Steel Corporation or an appropirate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivison. The investigation will further relate, as appropirate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigaton to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment As-

sistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-662 Filed 1-6-77;8:45 am]

[TA-W-1,456]

ARMCO STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Ambridge Works, Ambridge, Pa. of Armco Steel Corp., Middletown, Ohio (TA-W-1,456). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with carbon & alloy seamless tube and couplings produced by Armco Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-663 Filed 1-6-77;8:45 am]

[TA-W-1,465]

ARMCO STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Ashland Works, Ashland, Kentucky of Armco Steel Corporation, Middletown, Ohio (TA-W-1,465). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with sheets, plates strip slabs, & galvanized sheets, coils, and billets produced by Armco Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-664 Filed 1-6-77;8:45 am]

[TA-W-1,482]

CALUMET STEEL CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Calumet Steel Company, Chicago Heights, Illinois (TA-W-1,482). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with hot rolled carbon steel bars, rounds, squares, angles and flats produced by Calumet Steel Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-665 Filed 1-6-77;8:45 am]

TA-W-1,459

CYCLOPS CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Mansfield, Ohio plant of Cyclops Corporation, Pittsburgh, Pa. (TA-W-1,459). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with rolled carbon, silicon and stainless sheets produced by Cyclops Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interest persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-666 Filed 1-6-77;8:45 am]

[TA-W-1,353]

HUNT VALVE COMPANY, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Hunt Valve Company, Inc., Salem, Ohio (TA-W-1,353). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with carbon steel and stainless steel auto and hand hydraulic and water valves produced by Hunt Valve Company, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-667 Filed 1-6-77;8:45 am]

[TA-W-1,475]

INTERLAKE, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Riverdale, Illinois plant of Interlake, Inc., Oakbrook, Illinois (TA-W-1,475). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with basic steel produced by Interlake, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are inivted to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-668 Filed 1-6-77;8:45 am]

[TA-W-1,476]

INTERLAKE, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Newport Works, Newport, Kentucky of Interlake, Inc., Oakbrook, Ill. (TA-W-1,476). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with basic steel produced by Interlake, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor; 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-669 Filed 1-6-77;8:45 am]

[TA-W-1,477]

INTERLAKE, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Chicago, Illinois plant of Interlake, Inc., Oakbrook, Ill. (TA-W-1,477). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with molten iron produced by Interlake, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-670 Filed 1-6-77;8:45 am]

[TA-W-1,478]

INTERLAKE, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Toledo, Ohio plant of Interlake, Inc., Oakbrok, Ill. (TA-W-1,478). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with molten iron produced by Interlake, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the

date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-671 Filed 1-6-77;8:45 am]

[TA-W-1,479]

JONES & LAUGHLIN STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Hazelwood, Pennsylvania plant of Jones & Laughlin Steel Corp., Pittsburgh, Pa. (TA-W-1,479). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with cold finished bars produced by Jones & Laughlin Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number of proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-672 Filed 1-6-77;8:45 am]

[TA-W-1,480]

JONES & LAUGHLIN STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976, the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Hennepin, Illinois plant of Jones & Laughlin Steel Corporation, Pittsburgh, Pa. (TA-W-1,480). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with carbon flat rolled products produced by Jones & Laughlin Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-673 Filed 1-6-77;8:45 am]

[TA-W-1,481]

JONES & LAUGHLIN STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Cleveland, Ohio plant of Jones & Laughlin Steel Corporation, Pittsburgh, Pa. (TA-W-1,481). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with flat rolled products produced by Jones & Laughlin Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under

Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 77-674 Filed 1-6-77;8:45 am]

[TA-W-1,466]

KOPPERS COMPANY, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Woodward, Alabama plant of the Organic Materials Div. of Koppers Company, Inc., Pittsburgh, Pennsylvania (TA-W-1,466). Accordingly, the Director of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with coke produced by Koppers Company, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in acordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-675 Filed 1-6-77;8:45 am]

[TA-W-1,467]

KOPPERS COMPANY, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976, the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Erie, Pa. plant of the Organic Materials Div. of Koppers Company, Inc., Pittsburgh, Pennsylvania (TA-W-1,467). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with coke produced by Koppers Company, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-676 Filed 1-6-77;8:45 am]

[TA-W-1,461]

LACLEDE STEEL CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Alton, Illinois plant of Laclede Steel Company, St. Louis, Missouri (TA-W-1,461). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with wire products, pipes, small sizes of sheets and strips produced by Laclede Steel Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in

writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.77-677 Filed 1-6-77;8:45 am]

[TA-W-1,462]

LACLEDE STEEL CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Madison, Illinois plant of Laclede Steel Company, St. Louis, Missouri (TA-W-1,462). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with reinforcing bars produced by Laclede Steel Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of December 1976.

MARVIN M. HOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.77-678 Filed 1-6-77;8:45 am]

[TA-W-1,351]

MUELER CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 1, 1976 the Department of Labor received a petition dated November 1, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Chattanooga, Tenn. plant of Mueler Co., Decatur, Illinois (TA-W-1,351). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with firehydrants 7 other waterworks products produced by Mueler Co. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 1st day of December 1976.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc.77-679 Filed 1-6-77;8:45 am]

[TA-W-1,453]

PHILADELPHIA COKE COMPANY, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Philadelphia Coke Company, Inc., Philadelphia, Pa. a wholly owned subsidiary of Eastern Gas & Fuel Associates, Boston, Mass (TA-W-1,453). According, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with coke produced by Philadelphia Coke Company, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment

Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-680 Filed 1-6-77;8:45 am]

[TA-W-1,380]

SONDRA, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 7, 1976 the Department of Labor received a petition dated November 29, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Sondra, Incorporated, Allentown, Pennsylvania (TA-W-1,380). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with women's and mens' slacks, women's tops, dresses, leotards, shirts, shorts, etc. produced by Sondra, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of December 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-681 Filed 1-6-77;8:45 am]

[TA-W-1,142]

STANDARD GLOVE CO. OF N.J., INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On October 5, 1976, the Department of Labor received a petition dated September 29, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing and Textile Workers on behalf of the workers and former workers of Standard Glove Co. of N.J., Inc., Newark, New Jersey (TA-W-1,142). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with work gloves produced by Standard Glove Co. of N.J., Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 5th day of October 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-682 Filed 1-6-77;8:45 am]

[TA-W-1,460]

TIMKIN CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976, the Department of Labor received a petition dated November 15, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of The Timkin Company, Canton, Ohio (TA-W-1,460). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with ingots, blooms, billets, tube rounds, seamless tubing, wire rods, bars, tool steel, taper roller carbon bearings produced by The Timkin Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor

Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-683 Filed 1-6-77;8:45 am]

[TA-W-1,474]

TITANIUM METALS CORP. OF AMERICA

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Standard Steel Div., Burnham, Pa. of Titanium Metals Corp., of America, Pittsburgh, Pa. (TA-W-1,474). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with railroad wheels and angles and rings produced by Titanium Metals Corp. of America or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 77-684 Filed 1-6-77;8:45 am]

[TA-W-1,473]

UNION ELECTRIC STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Union Electric Steel Corp. Carnegie, Pa. (TA-W-1,473). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with finished forged hardened steel rolls produced by Union Electric Steel Corp. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-685 Filed 1-6-77;8:45 am]

[TA-W-1,431]

U.S. STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Clairton, Pennsylvania plant of U.S. Steel Corp., Pittsburgh, Pa. (TA-W-1,431). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by U.S. Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Direcor, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-686 Filed 1-6-77;8:45 am]

[TA-W-1,443]

U.S. STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of McDonald, Ohio plant of U.S. Steel Corporation, Pittsburgh, Pa., (TA-W-1,443). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by U.S. Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-687 Filed 1-6-77;8:45 am]

[TA-W-1,443]

U.S. STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of McDonald, Ohio plant of U.S. Steel Corporation, Pittsburgh, Pa., (TA-W-1,443). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by U.S. Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further related, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursurant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-688 Filed 1-6-77;8:45 am]

[TA-W-1,444]

U.S. STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of McKeesport, Pennsylvania plant of U.S. Steel Corporation, Pittsburgh, Pa. (TA-W-1,444). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by U.S. Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20200.

Signed at Washington, D.C. this 15th day of December 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[TA-W-1,445]

U.S. STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976, the Department of Labor received a petition dated November 15, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of McKees Rocks, Pennsylvania plant of U.S. Steel Corporation, Pittsburgh, Pa. (TA-W-1,445). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by U.S. Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-690 Filed 1-6-77;8:45 am]

[TA-W-1,446]

U.S. STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment

On December 15, 1976, the Department of Labor received a petition dated November 15, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Pittsburg, California plant of U.S. Steel Corporation, Pittsburgh, Pa. (TA-W-1,446). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by U.S. Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Supart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-691 Filed 1-6-77;8:45 am]

[TA-W-1,447]

U.S. STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Provo, Utah plant of U.S. Steel Corporation, Pittsburgh, Pa. (TA-W-1,447). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by U.S. Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-692 Filed 1-6-77;8:45 am]

[TA-W-1,448]

U.S. STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976, the Department of Labor received a petition dated November 15, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Rankin, Pennsylvania plant of U.S. Steel Corporation, Pittsburgh, Pa. (TA-W-1,448). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by U.S. Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of December 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-693 Filed 1-6-77;8:45 am]

[TA-W-1,449]

U.S. STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976, the Department of Labor received a petition dated November 15, 1976, which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Torrance, California plant of U.S. Steel Corporation, Pittsburgh, Pa. (TA-W-1,449). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by U.S. Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1975.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-694 Filed 1-6-77;8:45 am]

[TA-W-1,451]

U.S. STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Bessemer, Alabama plant of U.S. Steel Corporation, Pittsburgh, Pa. (TA-W-1,451). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron and steel products produced by U.S. Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number of proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of December 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-695 Filed 1-6-77;8:45 am]

[TA-W-1,452]

U.S. STEEL CORPORATION

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Fairfield, Alabama plant of U.S. Steel Corporation, Pittsburgh, Pa. (TA-W-1,452). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with iron & steel products produced by U.S. Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of December 1976.

DOMINIC SORRENTINO,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.77-696 Filed 1-6-77;8:45 am]

[TA-W-1,468]

WHEELING PITTSBURGH STEEL CORPORATION

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Ohio Valley plant, Steubenville, Ohio of Wheeling Pittsburgh Steel Corp., Pittsburgh, Pa. (TA-W-1,468). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with strip steel, coated coils, pig iron, ingots, slabs & cold rolled coils produced by Wheeling Pittsburgh Steel Corp. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-697 Filed 1-6-77;8:45 am]

[TW-W-1,469]

WHEELING PITTSBURGH STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Ohio Valley plant, Follansbee, West Virginia of Wheeling Pittsburgh Steel Corp., Pittsburgh, Pa. (TA-W-1,469).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with strip steel and coated coils produced by Wheeling Pittsburgh Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-698 Filed 1-6-77;8:45 am]

[TA-W-1,470]

WHEELING PITTSBURGH STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Ohio Valley plant, Yorkville, Ohio of Wheeling Pittsburgh Steel Corp., Pittsburgh, Pa. (TA-W-1,470).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with tin and black plate, tin foil steel and cold rolled steel produced by Wheeling Pittsburgh Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-699 Filed 1-6-77;8:45 am]

[TA-W-1,471]

WHEELING PITTSBURGH STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976, the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Ohio Valley plant, Mingo Junction, Ohio of Wheeling Pittsburgh Steel Corporation, Pittsburgh, Pa. (TA-W-1,471). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with slabs & rolled coils produced by Wheeling Pittsburgh Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-700 Filed 1-6-77;8:45 am]

[TA-W-1,472]

WHEELING PITTSBURGH STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 15, 1976 the Department of Labor received a petition dated November 15, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Ohio Valley plant, Benwood, West Virginia of Wheeling Pittsburgh Steel Corporation, Pittsburgh, Pa. (TA-W-1,472). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with black and galvanized standard, structural and line pipes, welding castings, conduits and electrical metallic tubing produced by Wheeling Pittsburgh Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are inivted to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200

Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-701 Filed 1-6-77;8:45 am]

[TA-W-1,463]

YOUNGSTOWN SHEET AND TUBE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 20, 1976 the Department of Labor received a petition dated December 3, 1976 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of East Chicago, Indiana plant of Youngstown Sheet and Tube Co., Youngstown, Ohio (TA-W-1,463). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with basic steel produced by Youngstown Sheet and Tube Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 17, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 20th day of December 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-702 Filed 1-6-77;8:45 am]

NATIONAL CENTER FOR PRODUCTIVITY AND QUALITY OF WORKING LIFE

NATIONAL CENTER FOR PRODUCTIVITY OF QUALITY OF WORKING LIFE BOARD OF DIRECTORS

Meeting

JANUARY 5, 1977.

Notice is hereby given of a meeting of the Board of Directors of the National Center for Productivity and Quality of Working Life established by the National Productivity and Quality of Working Life Act of 1975 (Pub. L. 94-136). The Board is presently composed of 23 members representing business, labor, the Federal Government, State and local governments, institutions of higher education and others from the private and public sectors.

The Directors will meet January 12, 1977 at 9:30 a.m. in the Old Executive Office Building. The proposed agenda for the meeting which will adjourn at 12:00 p.m. is a discussion of a draft statement on productivity issues.

To receive additional information, and changes, if any, to the agenda, interested persons of the public should contact: Charles E. Courtney, National Center for Productivity and Quality of Working Life, 2000 M Street, N.W. at 202-254-9890.

GEORGE M. KUPER,
Executive Director.

[FR Doc.77-808 Filed 1-6-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

ARCHITECTURE PLUS ENVIRONMENTAL ARTS ADVISORY PANEL

Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); the NFAH Act of 1965, as amended (20 U.S.C. 959); and paragraph 9 of OMB Circular A-63; notice is hereby given that renewal of the Architecture Plus Environmental Arts Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of two years, until January 15, 1979.

The Architecture Plus Environmental Arts Advisory Panel reviews grant applications and makes recommendations to the National Council on the Arts and the Chairman, National Endowment for the Arts, regarding financial support of quality arts projects.

The charter for the Architecture Plus Environmental Arts Advisory Panel will be filed with standing committees of the Senate and House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Signed on January 3, 1977, in Washington, D.C.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-570 Filed 1-6-77;8:45 am]

DANCE ADVISORY PANEL

Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); the NFAH Act of 1965, as amended (20 U.S.C. 959); and paragraph 9 of OMB Circular A-63; notice is hereby given that renewal of the Dance Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of two years, until January 15, 1979.

The Dance Advisory Panel reviews grant applications and makes recommendations to the National Council on the Arts and the Chairman, National Endowment for the Arts, regarding financial support of quality arts projects.

The charter for the Dance Advisory Panel will be filed with standing committees of the Senate and House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Signed on January 3, 1977, in Washington, D.C.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-571 Filed 1-6-77;8:45 am]

EXPANSION ARTS ADVISORY PANEL

Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); the NFAH Act of 1965, as amended (20 U.S.C. 959); and paragraph 9 of OMB Circular A-63; notice is hereby given that renewal of the Expansion Arts Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of two years, until January 15, 1979.

The Expansion Arts Advisory Panel reviews grant applications and makes recommendations to the National Council on the Arts and the Chairman, National Endowment for the Arts, regarding financial support of quality arts projects.

The charter for the Expansion Arts Advisory Panel will be filed with standing committees of the Senate and House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Signed on January 3, 1977, in Washington, D.C.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-570 Filed 1-6-77;8:45 am]

Signed on January 3, 1977, in Washington, D.C.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-572 Filed 1-6-77;8:45 am]

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); the NFAH Act of 1965, as amended (20 U.S.C. 959); and paragraph 9 of OMB Circular A-63; notice is hereby given that renewal of the Federal Graphics Evaluation Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of two years, until January 15, 1979.

The Federal Graphics Evaluation Advisory Panel reviews grant applications and makes recommendations to the National Council on the Arts and the Chairman, National Endowment for the Arts, regarding financial support of quality arts projects.

The charter for the Federal Graphics Evaluation Advisory Panel will be filed with standing committees of the Senate and House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Signed on January 3, 1977, in Washington, D.C.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-573 Filed 1-6-77;8:45 am]

LITERATURE ADVISORY PANEL

Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); the NFAH Act of 1965, as amended (20 U.S.C. 959); and paragraph 9 of OMB Circular A-63; notice is hereby given that renewal of the Literature Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of two years, until January 15, 1979.

The Literature Advisory Panel reviews grant applications and makes recommendations to the National Council on the Arts and the Chairman, National Endowment for the Arts, regarding financial support of quality arts projects.

The charter for the Literature Advisory Panel will be filed with standing committees of the Senate and House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Signed on January 3, 1977, in Washington, D.C.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-574 Filed 1-6-77;8:45 am]

MUSEUM ADVISORY PANEL

Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); the NFAH Act of 1965, as amended (20 U.S.C. 959); and paragraph 9 of OMB Circular A-63; notice is hereby given that renewal of the Museum Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of two years, until January 15, 1979.

The Museum Advisory Panel reviews grant applications and makes recommendations to the National Council on the Arts and the Chairman, National Endowment for the Arts, regarding financial support of quality arts projects.

The charter for the Museum Advisory Panel will be filed with standing committees of the Senate and House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Signed on January 3, 1977, in Washington, D.C.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-575 Filed 1-6-77;8:45 am]

MUSIC ADVISORY PANEL

Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); the NFAH Act of 1965, as amended (20 U.S.C. 959); and paragraph 9 of OMB Circular A-63; notice is hereby given that renewal of the Music Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of two years, until January 15, 1979.

The Music Advisory Panel reviews grant applications and makes recommendations to the National Council on the Arts and the Chairman, National Endowment for the Arts, regarding financial support of quality arts projects.

The charter for the Music Advisory Panel will be filed with standing committees of the Senate and House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Signed on January 3, 1977, in Washington, D.C.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-576 Filed 1-6-77;8:45 am]

PUBLIC MEDIA ADVISORY PANEL

Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); the NFAH Act of 1965, as amended (20 U.S.C. 959); and paragraph 9 of OMB Circular A-63; notice is hereby given that renewal of the Public Media Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of two years, until January 15, 1979.

The Public Media Advisory Panel reviews grant applications and makes recommendations to the National Council on the Arts and the Chairman, National Endowment for the Arts, regarding financial support of quality arts projects.

The charter for the Public Media Advisory Panel will be filed with standing committees of the Senate and House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Signed on January 3, 1977, in Washington, D.C.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-577 Filed 1-6-77;8:45 am]

THEATRE ADVISORY PANEL

Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); the NFAH Act of 1965, as amended (20 U.S.C. 959); and paragraph 9 of OMB Circular A-63; notice is hereby given that renewal of the Theatre Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of two years, until January 15, 1979.

The Theatre Advisory Panel reviews grant applications and makes recommendations to the National Council on the Arts and the Chairman, National Endowment for the Arts, regarding financial support of quality arts projects.

The charter for the Theatre Advisory Panel will be filed with standing committees of the Senate and House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Signed on January 3, 1977, in Washington, D.C.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-578 Filed 1-6-77;8:45 am]

VISUAL ARTS ADVISORY PANEL

Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463); the NFAH Act of 1965, as amended (20 U.S.C. 959); and paragraph 9 of OMB Circular A-63; notice is hereby given that renewal of the Visual Arts Advisory Panel has been approved by the Chairman of the National Endowment for the Arts for a period of two years, until January 15, 1979.

The Visual Arts Advisory Panel reviews grant applications and makes recommendations to the National Council on the Arts and the Chairman, National Endowment for the Arts, regarding financial support of quality arts projects.

The charter for the Visual Arts Advisory Panel will be filed with standing committees of the Senate and House of Representatives having legislative jurisdiction over the Endowment and with the Library of Congress.

Signed on January 3, 1977, in Washington, D.C.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-579 Filed 1-6-77;8:45 am]

VISUAL ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Visual Arts Advisory Panel (Master Craftsmen Apprenticeships) to the National Council on the Arts will be held on January 24-25, 1976 from 9:30 a.m.-6:00 p.m., in Room 1115, Columbia Plaza Building, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-650 Filed 1-6-77;8:45 am]

EXPANSION ARTS ADVISORY PANEL

Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Expansion Arts Advisory Panel to the National Council on the Arts will be held on January 19, 1977, from 9:00-5:30, in Room 1425, Columbia Plaza Building, 2401 E Street, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-813 Filed 1-6-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR MEMORY AND COGNITIVE PROCESSES

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Memory & Cognitive Processes.
Date and time: January 31 and February 1, 1977 9:00 A.M. each day.
Place: National Science Foundation, 1800 G Street, NW, Washington, D.C., Room 338.
Type of meeting: Closed.
Contact person: Dr. Joseph L. Young, Program Director for Memory and Cognitive Processes, Room 320, National Science Foundation, Washington, D.C., Telephone: 202-634-1583.
Purpose of panel: To provide advice and recommendations concerning support for research in Memory and Cognitive Processes.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

JANUARY 3, 1977.

[FR Doc.77-557 Filed 1-6-77;8:45 am]

FEDERAL SCIENTIFIC AND TECHNICAL INFORMATION MANAGERS

Meeting

The next meeting of the Federal Scientific and Technical Information Managers will be held on Wednesday, January 12, 1977, from 9:30 a.m.-12 noon, at the Office of Telecommunications, 1325 G Street, NW, Forum Room, Second Floor. The theme of this meeting will be the "Developments in Computers and Telecommunications Technology: What Impacts on S&T Communication?"

These meetings, sponsored by the National Science Foundation, provide a forum for the interchange of information concerning common problems and coordination in the areas of Federal scientific and technical information and communications.

These meetings are designed solely for the benefit of Federal employees and officers, and do not fall under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463). However, this meeting is believed to be of sufficient importance and interest to the public to be announced in the FEDERAL REGISTER.

Any persons wishing to attend this meeting or requiring further information should notify Mr. Andrew A. Aines, Division of Science Information, National Science Foundation, 1800 G Street, NW, Washington, DC 20550, telephone: (202) 632-5836.

Dated: December 29, 1976.

LEE G. BURCHINAL,
Director, Division of Science Information.

[FR Doc.77-553 Filed 1-6-77;8:45 am]

SUBPANEL FOR THE COMPREHENSIVE ASSISTANCE TO UNDERGRADUATE SCIENCE EDUCATION PROGRAM (CAUSE); ADVISORY PANEL FOR SCIENCE EDUCATION PROJECTS

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: SubPanel for the Comprehensive Assistance to Undergraduate Science Education Program (CAUSE) Advisory Panel on Science Education Projects

Date and time: January 30, 1977—7:30 p.m.—9:30 p.m. January 31, 1977—7:30 a.m.—5:00 p.m. February 1, 1977—7:30 a.m.—5:00 p.m.

Place: Biltmore Hotel, 515 South Olive Street, Los Angeles, California.

Type of Meeting: Closed.

Contact person: Dr. John A. Maccini, Program Director, CAUSE, Room W-408, National Science Foundation, Washington, D.C. 20550, Tel: 202-282-7736.

Purpose of panel: To provide advice and recommendations concerning support for the CAUSE Program.

Agenda: To review and evaluate specific science education proposals as part of the selection process for awards.

Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is subject to exemption (5) of the Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

JANUARY 3, 1977.

[FR Doc. 77-558 Filed 1-6-77;8:45 am]

SUBPANEL FOR THE RESEARCH INITIATION AND SUPPORT PROGRAM, (RIAS); ADVISORY PANEL ON SCIENCE EDUCATION PROJECTS

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel for the Research Initiation and Support Program (RIAS); Advisory Panel on Science Education Projects

Date and time: January 27, 1977—7:30 p.m.—9:30 p.m. January 28, 1977—8:30 a.m.—5:00 p.m. January 29, 1977—8:30 a.m.—3:00 p.m.

Place: Quality Inn—Pentagon City, 300 Army Navy Drive, Arlington, Virginia

Type of meeting: Closed.

Contact person: Dr. Alfred F. Borg, Program Director, RIAS, Room W-420, National Science Foundation, Washington, D.C. 20550, Tel: 202-282-7777.

Purpose of panel: To provide advice and recommendations concerning support for the RIAS Program.

Agenda: To review and evaluate specific science education proposals as part of the selection process for awards.

Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(b) of P.L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

JANUARY 4, 1977.

[FR Doc.77-585 Filed 1-6-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13118; File No. SR-Amex-76-32]

AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change; Self-Regulatory Organization

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 December 20, 1976, the American Stock Exchange, Inc. (the "Amex") filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed addition to the Amex's Constitution provides:

WRITTEN CONSENT TO ACTION WITHOUT MEETING

Any action required or permitted to be taken by the Board or any committee thereof may be taken without a meeting if all members of the Board or such committee consent in writing to the adoption of a resolution authorizing such action.

STATEMENT OF BASIS AND PURPOSE

The purpose of this proposed change is to enable the Board or any of its committees to take action between regularly scheduled meetings without the necessity of calling a special meeting where unanimity is available among Board or committee members. The new section being added to the Amex's Constitution is consistent with the provisions of the New York Not-For-Profit Corporation Law, which allow action by written consent only if specifically authorized in a corporation's charter documents.

The proposed amendment is based upon section 6(b)(1) of the Securities Exchange Act of 1934, as amended by the Securities Acts Amendments of 1975, and will facilitate procedural aspects of Board and committee action in certain situations.

No comments were solicited or received with respect to the proposed amendment.

The Amex has determined that the proposed addition to its Constitution will not impose any burden on competition.

On or before February 11, 1977, 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 Amex. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 28, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 29, 1976.

[FR Doc.77-644 Filed 1-6-77;8:45 am]

[Release No. 34-13119; File No. SR-CBOE-1976-25]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Proposed Rule Change; 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 December 17, 1976 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

(Brackets indicate deletions; *italics*, new material.)

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

DISCIPLINARY JURISDICTION

Rule 17.1 A member *or a person associated with a member* [, Approved Person or person registered under Chapter IX of these Rules] (the "Respondent") who [has violated] *is alleged to have violated or aided and abetted a violation of any provision of the Securities Exchange Act of 1934, as amended ("Exchange Act"), the rules and regulations promulgated thereunder, or* any *constitutional provisions* by-law or rule of the Exchange or of the Clearing Corporation *or any interpretation thereof* or resolution of the Board of the Exchange or of the Clearing Corporation regulating the conduct of business on the Exchange [may be expelled, suspended or disciplined] *shall be subject to the disciplinary jurisdiction of the Exchange under this Chapter, and after notice and opportunity for a hearing may be appropriately disciplined by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member or any other fitting sanction,* in accordance with provisions of the Chapter.

An individual member, nominee of [Approved Person] *other person associated with a member organization* may be charged with any violation committed by [his] employees *under his supervision* or by the member organization with which he is associated, as though such violation were his own. A member organization may be charged with any violation committed by its employees or by a member or [Approved Person] *other person* who is associated with such member organization, as though such violation were its own.

* * * *Interpretations and Policies*

.01 *Any member or person associated with a member shall be subject to the disciplinary jurisdiction of the Exchange for a period of one year following such person's termination of membership or association with a member: Provided however, That within such period the Exchange serves written notice to such former member or associated person that the Exchange is making inquiry into a specified matter or matters which occurred prior to the termination of such person's status as a member or person associated with a member.*

.02 *A summary suspension or other action taken pursuant to Chapter XVI of the Rules shall not be deemed to be disciplinary action under this Chapter, and the provisions of this Chapter shall not be applicable to such action.*

COMPLAINT AND INVESTIGATION

Rule 17.2 (a) *Initiation of Investigation.* The *Exchange* [Department of Compliance] shall investigate possible violations within the disciplinary jurisdiction of the Exchange upon order of the Board, the Business Conduct Committee, the President or [the Compliance Director] *other Exchange officials designated by the President* or upon receipt of a complaint alleging such violations filed by a member or by any other person alleging injury as a result of such violations (the "Complainant"). All complaints shall be in writing signed by the Complainant and shall specify in reasonable detail the facts constituting the violation, including the specific *statutes,* by-laws, rules, *interpretations* or resolutions allegedly violated.

(b) Report. In every instance where an investigation has been instituted as a result of a complaint received by the Exchange, and in every other instance in which an investigation results in a finding that there are reasonable grounds to believe that a violation has been committed, the *Exchange staff* [Department of Compliance] shall submit a written report of its investigation to the Business Conduct Committee.

CHARGES

Rule 17.3. (a) Determination Not to Initiate Charges. Whenever it shall appear to the Business Conduct Committee from the report of the *staff of the Exchange* [Department of Compliance] that no probable cause exists for finding a violation within the disciplinary jurisdiction of the Exchange, or whenever the Business Conduct Committee otherwise determines that no further proceedings are warranted, it shall issue a written statement to that effect setting forth its reasons for such finding. A copy of the statement shall be sent to the Complainant, if any.

(b) Initiation of Charges. Whenever it shall appear to the Business Conduct Committee from the report of the *staff of the Exchange* [Department of Compliance] that there is probable cause for finding a violation within the *disciplinary* jurisdiction of the Exchange and that further proceedings are warranted, the Business Conduct Committee shall direct the *staff of the Exchange* [Department of Compliance] to prepare a statement of charges against the person or organization alleged to have committed a violation (the "Respondent") specifying the acts in which the Respondent is charged to have engaged and setting forth the specific *provisions of the Securities Exchange Act of 1934, as amended, rules and regulations promulgated thereunder, constitutional provisions, by-laws, rules, interpretations* or resolutions of which such acts are in violation. A copy of the charges shall be served upon the Respondent in accordance with Rule 17.11. *The Complainant, if any, shall be notified if further proceedings are warranted.*

HEARING

Rule 17.5 (a) Participants. Subject to Rule 17.6 of this Chapter concerning summary proceedings, a hearing on the charges shall be held before one or more members of the Business Conduct Committee, a senior officer of the Exchange, or a special sub-committee consisting of *one or more* members of the Business Conduct Committee and *one or more* senior Exchange officers. Any other person possessing expertise over matters to be considered at the hearing may participate in the hearing in a capacity agreed upon by the Respondent and the Business Conduct Committee. The person or persons conducting the hearing shall exercise the authority of the Business Conduct Committee in respect of matters pertaining to the hearing and for purposes of this Chapter shall be referred to as the "Panel." A representative of the *Exchange* [Department of Compliance] and the Respondent shall be the parties to the hearing. [In addition, the Panel shall determine whether and to what extent any other interested persons may participate as parties to the hearing.] Where a member organization is a party, it shall be represented by one of its members (including nominees) at the hearing.

(b) Notice and List of Documents. Parties shall be given at least 15 days notice of the time and place of the hearing and a statement of the matters to be considered therein. All documentary evidence intended to be presented in the hearing by the Respondent, [the Compliance Officer] *the Exchange,* or any other party must be received by the Panel at least eight days in advance of the hearing or it may not be presented in the hearing [or relied on by the Panel in its determinations]. The parties shall [be furnished] *furnish each other* with a list of all documents submitted for the record not less than four days in advance of the hearing, and the documents themselves shall be made available to the parties for inspection and copying.

(c) Conduct of Hearing. The Panel shall determine all questions concerning the admissibility of evidence and shall otherwise regulate the conduct of the hearing. Formal rules of evidence shall not apply. The charges shall be presented by *a representative of the Exchange* [the Compliance Officer] who, along with Respondent *and any other party,* may present evidence and produce witnesses[.] *who shall testify under oath and are subject to being* [Witnesses may be] questioned by the Panel *and the other parties,* [as well as by the Compliance Officer and the Respondent.] The Respondent *and intervening parties are* [is] *entitled* to be represented by counsel who may participate fully in the hearing. [Additional parties may participate to the extent permitted by the Panel.] A transcript of the hearing shall be made and shall become parts of the record.

* * * *Interpretations and Policies*

.01 *Intervention. Any person not otherwise a party may intervene as a party to the hearing upon demonstrating to the satisfaction of the Panel that he has an interest in the subject of the hearing and that the disposition of the matter, may, as a practical matter, impair or impede his ability to protect that interest. Also, the panel may in its discretion permit a person to intervene as a party to the hearing when the person's claim or defense and the main action have questions*

of law or fact in common. Any person wishing to intervene as a party to a hearing shall file with the Panel a notice requesting the right to intervene, stating the grounds therefor, and setting forth the claim or defense for which intervention is sought.

.02 The panel, in exercising its decretion concerning intervention shall take into consideration whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

OFFERS OF SETTLEMENT

Rule 17.7. At any time during the course of any proceeding under this Chapter, the Respondent may submit to the Business Conduct Committee a written offer of settlement which shall contain a proposed stipulation of facts and shall consent to a specified penalty. Where the Business Conduct Committee accepts an offer of settlement, it shall issue a decision, including findings and conclusions and imposing a penalty, consistent with the terms of such offer. Where the Business Conduct Committee rejects an offer of settlement, *it shall notify the Respondent and* the matter shall proceed as if such offer had not been made, and the offer and all documents relating thereto shall not become part of the record. A decision of the Business Conduct Committee issued upon acceptance of an offer of settlement as well as the determination of the Committee whether to accept or reject such an offer shall be final. [except as provided in Rule 17.9(c) of this Chapter] and the Respondent may not seek review thereof.

DECISION

Rule 17.8. Following a hearing conducted pursuant to Rule 17.5 of this Chapter, the Panel shall prepare a decision in writing, based solely on the record, determining whether the Respondent has committed a violation and imposing the penalty, if any, therefor. Where the Panel is not composed of *at least a majority* [all] of the members of the Business Conduct Committee, its determination shall be automatically reviewed by [the full] *a majority of the* Committee, which may accept or modify the determination or remand the matter for additional findings or supplemental proceedings. The decision shall include a statement of findings and conclusions, with the reasons therefor, upon all material issues presented on the record. Where a penalty is imposed, the decision shall include a statement specifying the acts or practices in which the Respondent [may be] *has been* found to have engaged and setting forth the specific *provisions of the Securities Exchange Act of 1934; as amended, rules and regulations promulgated thereunder,* constitutional provisions, by-laws, rules, *interpretations* or resolutions of which the acts are deemed to be in violation. The Respondent shall be promptly sent a copy of the decision.

REVIEW

Rule 17.9. (a) Petition. The Respondent shall have 10 days after service of notice of a decision made pursuant to Rule 17.8 of this chapter to petition for review thereof. Such petition shall be in writing and shall specify the findings and conclusions to which exceptions are taken together with reasons for such exceptions. Any objections to a decision not specified by written exception shall be considered to have been abandoned [and may be disregarded].

(b) (No Change)

(c) Review on Motion of Board. The Board may on its own initiative order review of a decision made pursuant to Rules 17.6 or 17.8 [or a rejection of an offer of settlement made pursuant to Rule 17.7] of this Chapter within 30 days after notice of the decision has been served on the Respondent. Such review shall be conducted in accordance with the procedure set forth in paragraph (b) of this Rule.

JUDGMENT AND PENALTY

Rule 17.10. (a) Penalties. [In disciplining violations pursuant to this Chapter,] *Members and persons associated with members shall (subject to any rule or order of the Securities and Exchange Commission) be appropriately disciplined by* the Business Conduct Committee *for violations under these Rules by expulsion, suspension, limitation of activities, functions and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction.* [may censure or impose a fine on the Respondent, suspend his membership, approval, or registration, for a definite period or until he has complied with specified requirements and obtained reinstatement pursuant to Rule 16.3 of the Rules, order the suspension or termination of any business connections with any employee or affiliate or organization, terminate the Respondent's membership, approval or registration, or impose any other penalty considered appropriate under the circumstances.]

EXCHANGE STATEMENT OF BASIS AND PURPOSE

Rule 17.1. The Amendment to Rule 17.1 brings the rule into conformity with the provisions of Sections 6(b)(1), 6(b)(6) and 6(d)(1) of the 1934 Act governing the disciplinary jurisdiction of exchanges by extending the Exchange's disciplinary jurisdiction to persons associated with members, by bringing within such jurisdiction violations of the 1934 Act and by otherwise conforming the terminology of the rule to that of the 1934 Act.

Furthermore, the purpose of the amendments is to specifically subject persons to the Exchange's disciplinary jurisdiction within one year after such person's termination of membership or association with a member for acts committed during the period of his membership or membership association. In addition, the amendment makes it clear that the provisions of Chapter XVII do not apply to actions taken in accordance with Chapter XVI of the Exchange's Rules.

Rule 17.2. The purpose of the proposed amendment to this rule is to enlarge the category of Exchange officials having authority to order investigation of possible violations. Such an amendment will give the Exchange greater freedom in organizing its administration of disciplinary matters.

Rule 17.3. The proposed amendment to this rule reflects the amendment discussed under Rule 17.2 whereby departments of the Exchange other than the Compliance Department may have responsibility for disciplinary investigations and the initiation of charges.

Rule 17.5. The proposed interpretation to this rule clarifies the procedures to be followed in permitting persons to intervene as parties in disciplinary hearings.

Rule 17.7. The proposed amendment requires that the Business Conduct Committee notify the Respondent when it rejects an offer of settlement. Although this has been the practice in the past, it has not been a formal part of the Exchange's disciplinary procedures.

Rule 17.8. The proposed amendment to this rules provides for a review by a majority of the members of the Business Conduct Committee of all decisions by hearing Panels composed of less than a majority of the members of the Committee. This amendment was proposed in an effort to expedite the disciplinary process and at the same time ensure that disciplinary decisions involving Respondents are exposed to the knowledge and expertise of a representative number of the Business Conduct Committee members.

Rule 17.9. The proposed amendment primarily deletes review on motion of the Board of Directors of rejections of offers of settlement. As a practical matter, such review has not occurred, and provision for it merely serves to delay the prompt completion of disciplinary actions. Such an amendment will serve to expedite the processing of a disciplinary case, and also, maintain the opportunity for review of Business Conduct Committee decisions by the Board of Directors.

Rule 17.10. The proposed amendment brings this rule into conformity with the language of section 6(b)(6) of the 1934 Act.

Pursuant to the requirements of sections 6(b)(1), 6(b)(6) and 6(d)(1) of the 1934 Act, the Exchange has proposed amendments to that chapter of its Rules which concerns disciplinary procedures, jurisdiction, penalties and review of Business Conduct Committee decisions regarding members and persons associated with members.

Comments were not solicited from members on the proposed rules change.

The Exchange does not believe the proposed rules change will impose any burden upon competition.

On or before February 11, 1977, 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, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., 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 on or before January 31, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 29, 1976.

[FR Doc.77-638 Filed 1-6-77;8:45 am]

[811-2222]

FIDELITY CONVERTIBLE & SENIOR SECURITIES FUND, INC.

Filing of Application for an Order Declaring That Fidelity Convertible & Senior Securities Fund, Inc., Has Ceased To Be an Investment Company

Notice is hereby given that Fidelity Equity-Income Fund, Inc. ("Applicant"), 82 Devonshire Street, Boston, Massachusetts 02109, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on July 1, 1976, and an amendment thereto on December 21, 1976, pursuant to section 8(f) of the Act, for an order of the Commission declaring that Fidelity Convertible & Senior Securities Fund, Inc. ("Fidelity Convertible"), an open-end, diversified, management investment company also registered under the Act, has ceased to be an investment company as defined in the Act. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that Fidelity Convertible was incorporated in the Commonwealth of Massachusetts on August 25, 1971, and registered under the Act on August 25, 1971.

Applicant represents that on September 12, 1975, pursuant to an Amended Agreement of Merger which was approved by the shareholders of Fidelity Convertible on September 9, 1975, Fidelity Convertible was merged with and into Applicant and the outstanding shares of Fidelity Convertible were converted into shares of Applicant. Applicant further represents that Articles of Merger were filed with the Secretary of the Commonwealth of Massachusetts and that, pursuant to state law, on the effective date of the merger, title to and possession of all the estate, property, franchises and other interests of Fidelity Convertible vested in Applicant. Applicant states that Fidelity Convertible has no separate corporate existence, no assets and no shareholders.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 24, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-641 Filed 1-6-77;8:45 am]

[File No. 500-1]

GEMEX MINERALS, INC.

Suspension of Trading

DECEMBER 23, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Gemex Minerals, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10:25 a.m. (EST) on December 23, 1976 through January 1, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-636 Filed 1-6-77;8:45 am]

[File No. 20-209A1, 3-5047]

GENERAL OIL, INC. AND MORRIS DICKEY WELL #1

Order Permanently Suspending Regulation B Exemption Regarding Schedule D Offering Sheet

JANUARY 3, 1977.

I. On July 13, 1976, the Commission issued an order temporarily suspending the Regulation B exemption in the captioned offering sheet filed by General Oil, Inc., Indianapolis, Indiana, stating that it had reasonable cause to believe that:

1. No exemption is available for this offering under Regulation B because General Oil, Inc. failed to comply with Rule 310(d) of Regulation B (17 CFR 230.310(d)) in that General Oil, Inc. sold interests in the offering and accepted money for said interests without delivering to those persons who bought the interests a copy of the offering sheet at least 48 hours before the sale.

2. No exemption is available for this offering under Regulation B because General Oil, Inc. failed to comply with Rule 302(b) of Regulation B (17 CFR 230.302(b)) in that General Oil, Inc. failed to keep that percent of the working interest, from the Morris Dickey No. 1 tract, as is required under such Rule.

3. No exemption is available for this offering under Regulation B because the offering sheet used failed to comply with Rules 330(a) and (b) of Regulation B (17 CFR 230.330(a) and (b)) by failing to disclose that:

a. Robert S. Chappell, president and sole shareholder of General Oil, Inc. was permanently enjoined by a United States District Court from violations of the anti-fraud provisions of the Federal securities laws in connection with the offer and sale of certain securities of Investment Corporation of America, and Air & Space Underwriters, Inc. and that this Order is still in force;

b. Robert S. Chappell is a defendant in a class action filed on March 14, 1975, in the United States District Court, Southern District of Indiana, alleging violations of the anti-fraud provisions of the Federal securities laws, and that the case is still pending;

c. Robert S. Chappell is a defendant in a class action filed on March 18, 1975, in the Allen Superior Court, County of Allen, State of Indiana, alleging fraud in connection with the sale of land, and that, such case is still pending; and

d. In excess of $100,000 of the proceeds would be used for and applied to the purchase of a motel in Arkansas.

II. No hearing having been requested by the issuer within thirty days after the entry of the order temporarily suspending its exemption under Regulation B, the Commission finds that it is in the

public interest and for the protection of investors that the exemption be permanently suspended.

Accordingly, it is ordered, Pursuant to Rules 334 and 336 of Regulation B under the Securities Act of 1933 that the exemption from registration with respect to General Oil, Inc.'s Morris Dickey Well No. 1 offering be, and hereby is, permanently suspended.

For the Commission, by its Secretary, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-642 Filed 1-6-77;8:45 am]

[70-5946]

MONONGAHELA POWER CO. ET AL

Proposed Issuance of Promissory Notes to County Authority for Pollution Control Equipment

In the matter of Monongahela Power Company, 1310 Fairmont Avenue, Fairmont, West Virginia 26554; The Potomac Edison Company, Downsville Pike, Hagerstown, Maryland 21740; West Penn Power Company, 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601.

Notice is hereby given that Monongahela Power Company ("Monongahela") The Potomac Edison Company ("PE"), and West Penn Power Company ("West Penn") (collectively referred to herein as the "Companies") which are public utility subsidiary companies of Allegheny Power System, Inc., a registered holding company, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, 9 and 12 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Hatfield's Ferry Power Station ("Hatfield"), located in Greene County, Pennsylvania, is jointly owned by Monongahela, PE, and West Penn as follows:

	Percent
Monongahela	27½
PE	20
West Penn	52½

Various pollution control equipment including certain precipitators, fly-ash handling systems, a cooling tower and cooling water recirculating system, a water treatment system and associated equipment (collectively referred to herein as the "Facilities") are now under construction at Hatfield. The Facilities are required to be installed at Hatfield in order to meet air quality standards as to particulate emissions and various state and federal water quality standards.

The proposed transactions involve the transfer of the Facilities to the Greene County Industrial Authority ("the Authority") by Monongahela, PE and West Penn. All conveyances to the Authority will be made subject to the liens of the first mortgages of Monongahela, PE and West Penn. The Authority will complete the construction of the Facilities. It is expected that the total cost of the Facilities to be financed by the Authority will not exceed $27½ million. The Authority will finance the Facilities by issuing and selling to the public its tax exempt pollution control revenue bonds ("the Bonds") with a maturity of not less than five and not more than thirty-five years in one or more series. It is expected that the total amount of Bonds to be issued by the Authority will not exceed $27½ million.

The Bonds will be issued in respect of each Company's interest by the Authority under a separate trust indenture ("the indenture") with a corporate trustee, approved by each respective Company, and shall be sold in one or more series, at such times, in such principal amounts, at such interest rates, and for such prices as shall be approved by that Company. The issue in respect of Monongahela's interest in Hatfield will not exceed $7,562,500, the issue in respect of PE's interest in Hatfield will not exceed $5.5 million and the issue in respect of West Penn's interest in Hatfield will not exceed $14,437,500. The Bonds will not be secured by the Facilities but will be supported by various covenants of the Companies to be contained in a pollution control financing agreement ("the Agreement").

The Agreement provides that each Company will purchase an undivided interest in the Facilities from the Authority. The aggregate purchase price for all the Facilities will be an amount equal to the aggregate principal amount of the Bonds issued by the Authority and the share of the aggregate purchase price to be paid by each Company will be equal to the principal amount of the Bonds issued with respect to that Company's interest in Hatfield. As the Facilities are completed, title thereto will be transferred by the Authority to each of the Companies in accordance with their respective ownership in Hatfield.

To evidence its obligation to pay its share of the purchase price, each Company will deliver concurrently with the issuance of each series of Bonds its nonnegotiable unsecured pollution control note or notes corresponding to such series of Bonds in respect of principal amount, interest rates and redemption provisions and having installments of principal corresponding to any mandatory sinking fund payments and stated maturities. Payments on each Company's notes will be made to the trustee under that Company's indenture and applied by the trustee to pay the maturing principal and redemption prices of and interest and other costs on the Bonds with respect to that Company as the same become due.

The obligations of each Company to pay the purchase price for its interest in the Facilities is several and not joint, and the notes delivered by each Company are the obligations solely of that Company. The Companies will cause the Facilities to be completed and upon completion of all of the transactions the Companies will have complete control of the operation of the Facilities and will be responsible for the maintenance thereof. As of November 30, 1976, the actual coverage under Monongahela, PE and West Penn's respective Indentures is 4.38 times, 2.94 times and 2.59 times, respectively. If the issuance of the pollution control notes were included as first mortgage bonds, the pro forma coverage would be 4.24 times, 2.87 times and 2.49 times, respectively.

It is not possible to ascertain in advance precisely the interest rate which may be obtained in connection with the issuance of the Bonds. The Companies have been advised that the annual interest rate on tax-exempt bonds of the type to be sold by the Authority have been approximately 2% lower than the interest rate on taxable obligations of comparable quality.

It is expected that the Authority will engage Goldman, Sachs & Co. to provide financial advice and, together with such other underwriters as may be designated, underwrite the sale of the Bonds. Fees, commissions and expenses of the underwriters and legal counsel will be included in the total cost of the Facilities. The Companies have been informed that the Authority has legal authority to issue tax exempt revenue bonds in accordance with the proposed documents. The Bonds may be in either coupon or registered form and will bear interest semiannually at rates to be determined. The Bonds will be issued pursuant to the indentures which will provide for redemption, sinking funds, no-call and other appropriate provisions to be determined. The indenture will also provide that the proceeds of the sale of the Bonds by the Authority must be applied to the cost of the Facilities.

The proceeds to be received by the Companies will be added to each of the Companies' general funds to reimburse the treasury of each of the Companies for expenditures made in connection with the Facilities and are expected to be used as follows: (a) To complete construction of the Facilities and to pay fees and expenses associated therewith, (b) to pay or prepay, to the extent deemed desirable, short-term debt outstanding, if any, and (c) for the construction program of each of the Companies.

The Public Service Commission of West Virginia and the Public Utilities Commission of Ohio has jurisdiction over the proposed issuance of the pollution control notes by Monongahela; the Public Utility Commission of Pennsylvania has jurisdiction over the proposed issuance of the pollution control notes by West Penn; the Public Service Commission of West Virginia, the State Corporation Commission of Virginia and the Public Service Commission of Maryland has jurisdiction over the proposed issuance of the pollution control notes by PE. The Department of Environmental Regulation of the State of Pennsylvania will be required to certify that the Facilities are

being constructed and installed for water and air quality purposes. The Secretary of Commerce of the Commonwealth of Pennsylvania is required to certify to the proposed transactions. No other State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than January 24, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General rules and regulations permitted under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-639 Filed 1-6-77;8:45 am]

[File No. 500-1]

OMNI-RX HEALTH SYSTEMS

Suspension of Trading

DECEMBER 23, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Omni-Rx Health Systems being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10:25 a.m. (EST) on December 23, 1976 through January 1, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-637 Filed 1-6-77;8:45 am]

[Release No. 34-13117; File No. SR-PSE-76-39]

PACIFIC STOCK EXCHANGE INC.

Proposed Rule Change; 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 December 22, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change amends Rule II of the Pacific Stock Exchange Incorporated ("PSE") to provide for the expansion of the PSE Board from thirteen members to fifteen members. The proposed rule change further divides these members into three classes, with each class serving three year terms. The proposed rule change provides for annual election of a Chairman and Vice Chairman, and provides that action on various matters which presently require approval by a specified number of Governors may be taken with approval of a majority of the Governors voting at a meeting at which a quorum is present.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

The proposed rule change is primarily for the purpose of increasing the size of the PSE Board of Governors from thirteen to fifteen members. This change required a change in the provisions of the PSE Rules governing the division of directors into three classes. This change also required a change in the provision of the Constitution requiring approval by a specified number of directors for certain matters. In recognition of the increased size of the Board, and to provide the Board with greater flexibility, these provisions are proposed to be amended to provide that action of the type previously requiring approval by a specified number of directors, could be taken with the approval of a majority of the directors voting at a meeting at which a quorum is present.

The proposed rule change, by enlarging the Board of Governors of PSE, facilitates the fair representation of members of PSE in the selection of Governors and facilitates the provision for directors to be representative of issuers and investors and not associated with members, brokers, or dealers.

Comments on the proposed rule change were neither solicited nor received.

The proposed rule change does not impose any burden on competition.

On or before February 11, 1977, 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, NW., 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 on or before January 28, 1977. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 29, 1976.

[FR Doc.77-643 Filed 1-6-77;8:45 am]

[812-4041]

PARAMOUNT MUTUAL FUND, INC. AND UNIFUND, INC.

Amendment to Application for an Order Exempting Proposed Transaction

On December 16, 1976, there was issued a notice (Investment Company Act Release No. 9576) of an application filed on October 14, 1976, and amendments filed thereto on December 6, 1976 and December 13, 1976, by Paramount Mutual Fund, Inc. ("Paramount"), a Delaware corporation, and Unifund, Inc. ("Unifund"), 2441 Honolulu Avenue, Montrose, California 91020, a California corporation, (referred to collectively as "Applicants"), both registered as diversified, open-end management investment companies under the Investment Company Act of 1940 ("Act"), requesting an order pursuant to section 17(b) of the Act exempting from the provisions of section 17(a) of the Act a proposed merger of Unifund into Paramount.

Notice is hereby given that an additional amendment to said application was filed on December 22, 1976. To reflect the additional representations made in such amendment, for a statement of which all interested persons are referred to the application, as amended, on file with the Commission, the following material should be stricken from said notice:

Applicants state that the portfolio of Unifund will continually be reviewed to ascertain that all securities held by Unifund are compatible with Paramount's investment ob-

jective, and that, should any security held by Unifund be deemed to be incompatible with that objective, it will be sold prior to the merger.

In its place, the following language should be inserted:

Appliacnts state that Paramount invests primarily in "blue chip" securities, whereas Unifund has invested in securities which are more volatile in their price movements. In order to avoid delivery of securities to Paramount which are not compatible with Paramount's investment objectives, Applicants state that any security held by Unifund which is incompatible with that objective will be sold prior to the merger. In this regard, Applicants assert that, based upon a review of Unifund's portfolio, approximately 80 percent of Unifund's portfolio is incompatible with that of Paramount and will therefore be sold and the proceeds reinvested. Such liquidation and reinvestment is expected by Applicants to result in brokerage expenses of approximately $40,000. Applicants assert, however, that the entire portfolio of Unifund would normally be "turned over" in approximately eight months.

Similarly, the following material should be stricken from said notice:

It is estimated by Applicants that their combined expenses in the twelve months ended September 30, 1976, assuming that the Applicants' current investment advisory agreements had been in effect throughout the period, would have been reduced by more than $17,400 had the Funds been combined during that period. Applicants further assert that the increased size of the combined fund also would provide it with certain other strengths and flexibilities including somewhat greater investment flexibility with respect to portfolio transactions.

According to the Application, each of the Applicants will bear its own expenses in connection with the merger. Such expenses are estimated by Applicants to be $15,000 in the aggregate, of which Unifund will bear $5,000 and the remainder of approximately $10,000 will be borne by Paramount.

In its place, the following language should be inserted:

According to the application, the Funds investment advisory contracts, as affected by the Rules of the California Department of Corporations require the Funds' investment adviser to reimburse the Funds (1) to the extent the Funds' expenses (excluding, among other things, costs incurred in connection with any merger) exceed 1½ percent of the Funds' net assets each year, and (2) to the extent the Funds' expenses (including such merger costs) exceed 2 percent of those assets.

It is estimated by Applicants that their combined expenses in the twelve months ended September 30, 1976, assuming that the Applicants' current investment advisory agreements had been in effect throughout the period, would have been reduced by more than $17,400 had the Funds been combined during that period. However, in view of the aforementioned limitation on expenses during the fiscal year ended September 30, 1976, Applicants state that TCA Management paid to the Funds a total of $19,545 as reimbursement of such excess expenses.

Applicants thus submit that during the fiscal year ended September 30, 1976, the savings in expenses brought about by the merger would have inured to the benefit primarily of TCA Management and would not have resulted in any savings of out of pocket expenses to the Funds; if the expenses and the assets of the Funds continue to be the same as in the fiscal year ended September 30, 1976, the merger would not reduce the out of pocket expenses of the merged Funds themselves. Nevertheless, it is the contention of the Applicants that the reduction in expenses of the Funds will benefit both Paramount and Unifund. In this regard, Applicants assert that Paramount has, over the years, paid substantially all its operating expenses and that the reimbursement to Paramount by TCA Management for excess expenses in the fiscal year ended September 30, 1976, was only $1,627. Thus, Applicants argue, the ability to spread its fixed expenses over a larger asset base should serve to reduce Paramount's per share expenses in the future. Applicants further assert that the increased size of the combined fund also would provide it with certain other strengths and flexibilities including somewhat greater investment flexibility with respect to portfolio transactions.

Applicants further submit that it is economically unfeasible for any management company to manage the affairs of a company such as Unifund; in support of this submission they assert that the total consideration received by TCA Management for managing Unifund for the latter's fiscal year ended September 30, 1976, was, after reimbursement of Unifund's excess expenses, $1,108. Thus, Applicants conclude, the only course available to Unifund is either to liquidate or to merge with another investment company. Applicants state that Unifund's Board of Directors considered and rejected liquidation as a viable alternative; they argue that liquidation would be a taxable event for Unifund's shareholders, and that a Unifund shareholder who wished to reinvest the proceeds of such liquidation in Paramount would be required to pay an additional sales load. Applicants assert that the proposed merger would avoid such consequences. They concede that a Unifund shareholder could avoid the aforementioned sales charges by exercising his right to exchange his Unifund shares for shares of Paramount, but they submit that such an exchange would also be a taxable event and would involve additional service charges.

Applicants estimate that the total expenses of the merger to both funds over and above normal expenses will be approximately $24,000. Applicants assert, however, that the aforementioned constraints on excess expenses are expected to result in the Funds' investment adviser bearing approximately $20,000 of such merger expenses. It is proposed that the remaining cost to the Funds will be borne by them on a pro-rata basis, based on their relative net assets on the date of the merger.

Notice is further given that the period during which any interested person may submit to the Commission a request for a hearing on this matter, in accordance with the procedures set forth in Investment Company Act Release No. 9576, is hereby extended until January 21, 1977 at 5:30 p.m.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-645 Filed 1-6-77;8:45 am]

[File No. 812-4069]

THOMSON & MCKINNON AUCHINCLOSS KOHLMEYER INC. AND JAMES F. JOY

Filing of Application for Exemption and Order of Temporary Exemption Pending Determination of the Application

Notice is hereby given that Thomson & McKinnon Auchincloss Kohlmeyer Inc. ("Thomson & McKinnon"), and James F. Joy ("Joy"), One New York Plaza, New York, N.Y. 10004, (sometimes hereinafter referred to as "Applicants") have filed an application pursuant to section 9(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting Applicants from section 9(a) of the Act, and for an order of temporary exemption pending the Commission's determination of the application. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Thomson & McKinnon is a broker-dealer registered under the Securities Exchange Act of 1934 ("Exchange Act") and an investment adviser registered under the Investment Advisers Act of 1940. Thomson & McKinnon states that it is currently acting as co-sponsor and co-manager of an offering of the securities of, and, accordingly, would be deemed a depositor and a principal underwriter of, National Municipal Trust, Seventeenth Series. National Municipal Trust ("NMT") is a unit investment trust registered under the Act. Thomson & McKinnon also states that it acts and has acted in similar capacities with respect to other registered investment companies.

Joy is a vice-president of, and, accordingly, would be deemed an affiliated person of, Thomson & McKinnon. Joy was formerly a partner of the brokerage firm of W. E. Hutton & Company, certain assets of which were acquired by Thomson & McKinnon in 1974. During the period 1968–1970, Joy was an officer and director of National Student Marketing Corporation ("NSMC").

On February 3, 1972 the Commission commenced a civil action in the United States District Court for the District of Columbia entitled "Securities and Exchange Commission v. National Student Marketing Corporation, et al.", against some twenty (20) defendants, including Joy. The Complaint and First Amended Complaint therein were based upon acts and transactions which allegedly took place in 1968–1970 while Joy was an officer and director of NSMC and alleged, with respect to Joy, violations of section 10(b) and 14(a) of the Exchange Act, Rule 10b–5 promulgated thereunder, and section 17(a) of the Securities Act of 1933 ("Securities Act"). Neither Thomson & McKinnon nor W. E. Hutton & Company were named as defendants in the Complaint or First Amended Complaint or otherwise alleged to have been involved in the acts and transactions complained of therein.

Joy, without admitting or denying any of the allegations of the Complaint and First Amended Complaint, has consented to the entry of a Final Judgment of Permanent Injunction ("Consent Judgment") terminating the action against Joy, with prejudice. The Consent Judgment was entered by the Court on December 30, 1976, and enjoins Joy and his agents, servants and assigns from violating the anti-fraud, reporting and proxy provisions of the federal securities laws. The Consent Judgment does not constitute an adjudication of any liability or wrongdoing by Joy.

Section 9(a) of the Act, as here pertinent, makes it unlawful for any person, or any company with which such person is affiliated, to serve or act in the capacity of employee, officer, director, member of advisory board, investment adviser or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face-amount certificate company, if such person is, by reason of any misconduct, permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) provides that upon application the Commission by order shall grant an exemption from the provisions of section 9(a), either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to such person, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Applicants state that although the Consent Judgment does not constitute an adjudication of any misconduct by Joy, the entry of a permanent injunction against Joy may nevertheless be deemed to impose upon Applicants the prohibitions set forth in section 9(a) which would, among other things, make it unlawful for Thomson & McKinnon to continue to act as a depositor and a principal underwriter of NMT and in similar capacities with respect to other registered investment companies.

Applicants submit that, for the following reasons, the prohibitions of section 9(a), to the extent applicable by virtue of the Consent Judgment, would be unduly and disproportionately severe as applied to Applicants and the conduct of Applicants has been such as not to make it against the public interest or protection of investors for the Commission, pursuant to section 9(c), to enter an order granting Applicants, and any company or person of which either Applicant is or may become an affiliated person, a temporary exemption from the provisions of section 9(a) pending the Commission's determination of this application and thereupon to enter an order granting Applicants, and any company or person of which either Applicant is or may become an affiliated person, the requested permanent exemption from the provisions of section 9(a):

(a) The Consent Judgment does not constitute an adjudication of any liability or wrongdoing by Joy and was entered with the consent of Joy for purposes of that action only, without admitting or denying the allegations of the Complaint and First Amended Complaint;

(b) The prohibitions of section 9(a) of the Act would deprive NMT and other registered investment companies of the continuity of services rendered by Thomson & McKinnon as depositor and underwriter, which are important to those registered investment companies;

(c) Neither Thomson & McKinnon, NMT nor the other registered investment companies for which Thomson & McKinnon acts as depositor and principal underwriter participated in the alleged acts or transactions set forth in the Complaint and First Amended Complaint;

(d) Applicants have never before applied for an exemption from the provisions of section 9(a) of the Act. The Commission has considered the matter and finds that:

(1) The prohibitions of section 9(a) may be unduly or disproportionately severe as applied to Applicants and it would not be against the public interest or protection of investors to grant the application for a temporary exemption from section 9(a) pending determination of the application; and

(2) In order to maintain the services provided by Thomson & McKinnon to NMT and other registered investment companies, it is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act that the temporary order be issued forthwith.

Accordingly, IT IS ORDERED, pursuant to section 9(c) of the Act, that Thomson & McKinnon and Joy, and any company or person of which either is or may become an affiliated person, be and they hereby are temporarily exempted from any of the provisions of Section 9(a) of the Act operative as a result of the entry of the Consent Judgment against Joy in "Securities and Exchange Commission v. National Student Marketing Corporation, et al.," pending final determination by the Commission of the application for an order exempting Thomson & McKinnon and Joy, and any company or person of which either is or may become an affiliated person, from any of the provisions of section 9(a) operative as a result of the entry of such Consent Judgment.

Notice is further given that any interested person may, not later than January 31st, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants, to the attention of John B. Meehan, Senior Vice President, at the address stated above. Proof of service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-840 Filed 1-6-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

ADVISORY COMMITTEE ON VOLUNTARY FOREIGN AID

Determination

The Advisory Committee on Voluntary Foreign Aid serves as liaison between the U.S. Government and the private and voluntary organization community engaged in foreign asistance activities. In addition to its statutory duty to register and approve private and voluntary organizations, the Committee advises A.I.D. on policies and procedures concerning the private and voluntary community; provides a forum for the exploration of topics of mutual concern; provides information, counsel and asistance to private and voluntary organizations; and fosters public interest in the field of voluntary foreign aid. There continues to be a significant need for such liaison and the related functions of the Committee.

Accordingly, I hereby determine, pursuant to the provisions of section 14(c) of the Federal Advisory Committee Act (Pub. L. 92-463), that continuation of the Advisory Committee for a two year period, beginning December 31, 1976, is in the public interest.

Dated: November 18, 1976.

DANIEL PARKER,
Administrator.

[FR Doc.77-609 Filed 1-6-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

PRIVACY ACT OF 1974

Systems of Records

The Department of Transportation publishes seven new proposed Systems of Records, and one editorially modified,

which contain personal information on individuals as defined by the Privacy Act.

Complete information on these systems is contained in the separate announcements which follow. Any person or agency reviewing the information may submit written comments on the proposed systems to the Privacy Act Officer (TAD–20), Room 10320, U.S. Department of Transportation, 400–7th Street, S.W., Washington, D.C. 20590. Comments must be received on or before February 7, 1977, in order to be considered.

If no comments are received, the proposed systems will become effective February 7, 1977. If comments are received, the comments will be considered and where adopted, the system will be republished with the changes.

The publication of six systems DOT/UMTA 190–195, complements the Notices of Systems of Records to be republished by the Office of the Federal Register under the title "Privacy Act Issuances, 1976 Compilation, Volume 2." The system DOT/OST 060, which is a report of an entirely new program and DOT/UMTA 181 republished with editorial corrections, both supplement the 1976 compilation and must be added to it.

Issued in Washington, D.C. on December 30, 1976.

WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

DOT/OST 060

System name:

Medical Records of Participants in Study of Health Effects of Bicycling in Polluted Air. DOT/OST

System location:

Department of Transportation (DOT), Office of the Secretary (OST), Office of Environmental Affairs (TES–70), 400 7th Street, S.W., Washington, D.C. 20590.

Categories of individuals:

Volunteers who bicycle in selected urban transportation corridors.

Categories of records:

Medical histories, results of medical tests.

Routine uses:

Records may be released to the Department of Justice in defending claims against the United States when the claim is based upon an individual's mental or physical condition, and is alleged to have arisen because of activities of the Department of Transportation in connection with such individual. See also prefatory statement of General Routine Uses.

Records will be used in preparation of the Final Report for this study and by Project Officer in reviewing contractor's Final Report.

Policies and practices:

Storage:

File folders, locked file cabinets.

Retrievability:

Personal name is the identifier which is used to retrieve a record from this system. The purpose of this system of records is to identify and evaluate any adverse health effects caused by bicycling in polluted air.

Safeguards:

Disclosure of records is limited to the Department's consultants involved in collection and analysis of medical data. Safeguards include locked building, guard service, and locked file cabinets.

Retention and disposal:

The records will be retained at contractor's facilities until completion of study, and thereafter transmitted to contract Project Officer (TES–70) to be held for one year. Contractor's facilities will have security provisions in accordance with the government standards. Subjects will sign consent forms allowing disposal of records one year after completion of the approved Final Report.

System manager:

Project Officer, Research and Coordination Division (TES–74), Office of Environmental Affairs, Office of the Assistant Secretary for Environment, Safety and Consumer Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590.

Notification procedure:

Inquiries should be directed to the: Department of Transportation, Office of the Secretary, Office of Environmental Affairs (TES–70), 400 7th Street, S.W. Washington, D.C. 20590.

Record access procedure:

Contact or write to System Manager for information on procedures for gaining access to records.

Contesting record procedure:

Write the Privacy Act Officer, Office of Management Systems, Office of the Secretary, Department of Transportation, 400 7th Street, S.W., Washingotn, D.C. 20590. Reasonably identify the record and specify the information to be contested.

Record source categories:

Information is obtained directly from the individual and from results of medical tests.

DOT/UMTA 190

System name:

Employee Travel Records. DOT/UMTA.

System location:

Department of Transportation (DOT), Urban Mass Transportation Administration (UMTA), Office of Financial Management, Accounting Division, 2100 2nd Street, SW, Washington, DC 20590.

Categories of individuals:

All UMTA employees. Private persons, congressional committee members or other persons issued invitational travel orders to confer on government matters.

Categories of records:

Individual travel folders.

Routine uses:

Maintain accounting records. Analysis of travel trends. See Prefatory Statement of General Routine Uses.

Policies and practices:

Storage:

Records are maintained in a file cabinet secured with lock and key.

Retrievability:

System is indexed by name.

Safeguards:

Individuals requesting individual travel folders are screened by Accounting Branch personnel. Records are maintained by Accounting Branch personnel in secured file.

Retention and disposal:

Retained three years, then forwarded to Federal Records Center with other accounting records.

System manager:

Fiscal Officer, Accounting Branch, Department of Transportation, Urban Mass Transportation Administration, 2100 2nd Street, SW, Room 6613, Washington, DC 20590.

Notification procedure:

Individuals may contact the System Manager to confirm whether or not the system contains a record on them.

Record access procedure:

An individual may gain access to his records by request to the System Manager.

Contesting record procedure:

Content of these records may be settled with the System Manager. If this is unsatisfactory to the individual, the person may appeal in writing to the Secretary of Transportation addressed to the following: Department of Transportation, Urban Mass Transportation Administration, Office of the Chief Counsel, 400 7th Street, SW, Room 9320, Washington, DC 20590.

Record source categories:

Travel orders, individual travel vouchers.

DOT/UMTA 191

System name:

Travel Advance File. DOT/UMTA.

System location:

Department of Transportation (DOT), Urban Mass Transportation Administration (UMTA), Office of Financial Management, Accounting Division, 2100 2nd Street, S.W., Washington, D.C. 20590.

Categories of individuals:

Recipients of travel advances.

Categories of records:

Records of travel advances and liquidation and repayment thereof.

Routine uses:

Maintain accounting records. Ensure collection of amounts due the United States. See Prefatory Statement of General Routine Uses.

Policies and practices:

Storage:

Maintained on 5×8 card form.

Retrievability:

By name.

Safeguards:

Records are maintained by Accounting Branch personnel in locked file.

Retention and disposal:

Retained three years then forwarded to Federal Records Center with other accounting records.

System manager:

Fiscal Officer, Accounting Branch, Department of Transportation, Urban Mass Transportation Administration, 2100 2nd Street, S.W., Room 6613, Washington, D.C. 20590.

Notification procedure:

Individuals may contact the System Manager to confirm whether or not the system contains records on them.

Record access procedure:

An individual may gain access to his records by request to the System Manager.

Contesting record procedure:

Content of these records may be settled with the System Manager. If this is unsatisfactory to the individual, the person may appeal in writing to the Secretary of Transportation, addressed to the following: Department of Transportation, Urban Mass Transportation Administration, Office of the Chief Counsel, 400 7th Street, S.W., Room 9320, Washington, D.C. 20590.

Record source categories:

Travel advance card signed by individual.

DOT/UMTA 192

System name:

Urban Tarnsportation Planning System (UTPS) Address File. DOT/UMTA.

System location:

Department of Transportation (DOT), Urban Mass Transportation Administration (UMTA), Office of Transit Planning, Planning Methodology and Technical Support Division, UTP–40, 400 7th Street, S.W., Room 9311, Washington, D.C. 20590.

Categories of individuals:

UTPS users. Persons indicating continuing interest in UTPS developments. Federal Highway Administration (FHWA) Planning Package users.

Categories of records:

Individual's name, business address, telephone number, UPTS or FHWA Planning Package version date, UTPS course/symposium/conference attendance.

Routine uses:

For technical information dissemination. See Prefatory Statement of General Routine Uses.

Policies and practices:

Storage:

Records are maintained in a computer file.

Retrievability:

Access by computer terminal by any item.

Safeguards:

Available for use under the control of the System Manager. Computer file is protected by account number and code words.

Retention and disposal:

Records are retained until notified that individual no longer desires information and then record is destroyed.

System manager:

Director, Planning Methodology and Technical Support Division, UTF–40, Department of Transportation, Urban Mass Transportation Administration, Office of Transit Planning, 400 7th Street, S.W., Room 9311, Washington, D.C. 20590.

Notification procedure:

Inquiries are addressed to the System Manager, UTP–40 (address same as above).

Record access procedure:

Direct control is maintained by the System Manager.

Contesting record procedure:

Contest of these records is at Headquarter's level (i.e. the System Manager). Individual may appeal adverse decision to the Secretary of Transportation, addressed as follows: Department of Transportation, Urban Mass Transportation Administration, Office of the Administrator, 400 7th Street, S.W., Room 9324, Washington, D.C. 20590.

Record source categories:

UTPS order forms, UTPS course registration forms, letter and/or verbal request to be placed on mailing list.

DOT/UMTA 193

System name:

Docket. DOT/UMTA.

System location:

Department of Transportation (DOT), Urban Mass Transportation Administration (UMTA), Office of the Chief Counsel, 400 7th Street, SW, Room 9320, Washington, DC 20590.

Categories of individuals:

Individuals who have commented on notices of UMTA appearing in the FEDERAL REGISTER; authors of reports which are added to the Docket as background information.

Categories of records:

Summary of the nature of the comment or the report, date written and filed, author affiliation.

Routine uses:

To gather information in response to rules promulgated by UMTA. Users are both UMTA staff members and the public. See Prefatory Statement of General Routine Uses.

Policies and practices:

Storage:

Legal-size file folders stored in file cabinets.

Retrievability:

By name and Docket number assigned at the time of receipt.

Safeguards:

None required. Publically available file.

Retention and disposal:

Indefinite.

System manager:

Docket Clerk, Office of the Chief Counsel, Department of Transportation, Urban Mass Transportation Administration, 400 7th Street, SW, Room 9300, Washington, DC 20590.

Record access procedure:

Same as "System Manager."

Notification procedure:

Same as "System Manager."

Contesting record procedure:

Same as "System Manager."

Record source categories:

Correspondence freely sent by the public to UMTA.

DOT/UMTA 194

System name:

Litigation and Claims Files. DOT/UMTA.

System location:

Department of Transportation (DOT), Urban Mass Transportation Administration (UMTA), Office of the Chief Counsel, 400 7th Street, SW, Room 9320, Washington, DC 20590.

Categories of individuals:

Persons who are involved in litigation or claims actions.

Categories of records:

Litigation and claim pleadings, discovery material, related documents (including background data on individuals involved), memoranda, correspondence, and other material necessary to respond to claims or prepare for litigation or hearings.

Routine uses:

The documents are produced or used in and for litigation and claims. These documents are disclosed to the Depart-

ment of Justice. See Prefatory Statement for General Routine Uses.

Policies and practices:

Storage:

Legal-size file folders stored in lockable and unlockable file cabinets and individual attorney's offices.

Retrievability:

Retrieved by caption of the particular litigation.

Safeguards:

Data from these files are retrievable only by persons within the Office of the Chief Counsel.

Retention and disposal:

Litigation files are kept for two years after case is closed, then sent to Federal Records Center. All other records in the system are retained indefinitely.

System manager:

Chief Counsel, Department of Transportation, Urban Mass Transportation Administration, 400 7th Street, SW, Room 9320, Washington, DC 20590.

Notification procedure:

Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedure:

Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedure:

Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the System Manager.

Record source categories:

Federal courts, individuals and their attorneys, UMTA records, litigation files, etc.

DOT/UMTA 195

System name:

Confidential Statement of Employment and Financial Interests, DOT/UMTA.

System location:

Department of Transportation, (DOT), Urban Mass Transportation Administration, (UMTA), Office of the Chief Counsel, 400 7th Street, SW, Room 9320, Washington, DC 20590.

Categories of individuals:

Employees of the Urban Mass Transportation Administration in supervisory positions where a conflict of interest or the appearance of a conflict of interest might occur. Also included in this category are consultants and experts of the Urban Mass Transportation Administration.

Categories of records:

Information on employment and financial interests and debts.

Routine users:

The information to be furnished is required by Executive Order 11222 and the regulations of the Civil Service Commission issued thereunder and may not be disclosed except as the Commission or the agency head may determine. The purpose of the use of this information is to avoid a conflict of interest or the appearance of a conflict of interest in UMTA employees. See Prefatory Statement of General Routine Uses.

Policies and practices:

Storage:

Legal size folders.

Retrievability:

Indexed by name in alphabetical sequence.

Safeguards:

Records are stored in locked file cabinet.

Retention and disposal:

Records are kept 3 years and then transferred to Federal Records Center for 6 years.

System manager:

Chief Counsel, Department of Transportation, Urban Mass Transportation Administration, Office of the Chief Counsel, 400 7th Street, SW, Room 9320, Washington, DC 20590.

Notification procedure:

Department of Transportation, Urban Mass Transportation Administration, Office of the Chief Counsel, 400 7th Street, SW, Room 9320, Washington, DC 20590. Inquiries may be addressed to the Chief Counsel either in person or in writing. If written the individual must provide a notarized signature.

Record access procedure:

Access to records requires the individual to contact in person or write the Chief Counsel at the address in "Notification Procedure."

Contesting record procedure:

Contest of a record is also through the Chief Counsel.

Record source categories:

Statements of employment and financial interests, creditors, interests in real property are submitted by employees and consultants of the Urban Mass Transportation Administration. Initial requests for submission of statements are through the Personnel Division, Office of Administration, Urban Mass Transportation Administration.

DOT/UMTA 181, previously published December 7, 1976, Volume 41, Page 53565 is republished with editorial corrections. As before, it supplements the compilation published by the Office of the FEDERAL REGISTER under the title "Privacy Act Issuance, 1976 Compilation Volume 2:"

DOT/UMTA 181

System name:

Attendees Names and Addresses for R&D Priorities Conference.

System location:

UMTA Office of Research and Development and American Public Transit Association (acting as contractor to UMTA).

Categories of individuals:

Persons attending first R&D Priorities Conference in February 1976; those to be invited to the second and subsequent annual conferences, and those to whom copies of the proceedings of each conference are to be sent.

Categories of records:

These records contain names, organizational affiliation and addresses only.

Routine uses:

Including categories of users and the purposes of such uses: To communicate plans for planned conferences to likely participants. To distribute to participants and those who have requested, or are likely to benefit from, informational materials, proceedings, and other documents related to UMTA's research, development and demonstration activity. Records are subject to examination by federal officials concerned with the dissemination of research and development information, but are not disclosed to members of the public (except through publication in the proceedings of names of individuals who actually participate in each conference).

Policies and practices:

Storage:

Paper documents in file system.

Retrievability:

Alphabetically by name.

Safeguards:

Access is restricted to officials of UMTA and APTA involved in planning and disseminating information about conferences.

Retention and disposal:

Records are maintained in current status. Deleted names and addresses are discarded completely. The system itself will be discarded within two years after the last R&D priorities conference of the current series has been concluded.

System manager:

Official responsible is Executive Assistant to Associate Administrator for Research and Development, URD-3, UMTA, Washington, DC 20590.

Notification procedure:

Individual may contact the systems manager to confirm whether or not the system contains a record on them.

Record access procedures:

Same as Notification Procedure.

Contesting record procedure:

Content of these records may be settled with the system manager. If this is unsatisfactory to the individual, the person may appeal in writing to: Privacy Act Officer, UAD–60 Urban Mass Transportation Administration Room 4116, Nassif Building 400 7th Street, SW., Washington, D.C. 20690.

Record source categories:

Names of individuals who have attended past R&D Priorities Conferences and individuals who have requested copies of the proceedings.

[FR Doc.77–400 Filed 1–6–77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

DEBT MANAGEMENT ADVISORY COMMITTEES

Change of Name of Treasury Advisory Committee

In reference to the published Notice of December 17, 1976 (41 FR 55765) regarding the January 25 and 26, 1977 meetings of Treasury debt management advisory committee meetings, it should be noted that the name of the *Securities Industry Association, Government Securities and Federal Agencies Committee* has been changed to the *U.S. Government and Federal Agencies Securities Committee of the Public Securities Association.*

EDWIN H. YEO, III,
Under Secretary for Monetary Affairs.

JANUARY 3, 1977.

[FR Doc.77–559 Filed 1–6–77;8:45 am]

[TDO No. 190–1 Rev.]

DEPUTY ASSISTANT SECRETARY (TAX LEGISLATION), ET AL.

Delegation of Authority To Approve Internal Revenue Regulations

By virtue of the authority vested in the Secretary of the Treasury, which authority has been delegated to me as Assistant Secretary (Tax Policy) by Treasury Department Orders No. 150–41 and No. 190 (Revised), the authority to approve regulations relating to the internal revenue laws is redelegated as follows:

1. To the Deputy Assistant Secretary (Tax Legislation). This authority may be exercised by him in his own capacity and under his own title, and he shall be responsible for referring to the Assistant Secretary (Tax Policy) any regulations on which action should be appropriately taken by him.

2. To the Tax Legislative Counsel, but only if the positions of Deputy Assistant Secretary (Tax Legislation) and Deputy Assistant Secretary (Tax Analysis) are both vacant and the Assistant Secretary (Tax Policy) is away from Washington, D.C. This authority shall not be exercised by the Tax Legislative Counsel if in his judgment the regulation should be approved by the Assistant Secretary (Tax Policy).

3. The authority delegated herein to the Tax Legislative Counsel may be exercised by the Deputy Tax Legislative Counsel, in his own capacity and under his own title, but only if there is a vacancy in the position of Tax Legislative Counsel.

Treasury Department Order No. 190–1, dated January 8, 1973, is rescinded effective this date.

DECEMBER 29, 1976.

CHARLES M. WALKER,
Assistant Secretary (Tax Policy).

[FR Doc.77–565 Filed 1–6–77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 229]

Assignment of Hearings

JANUARY 4, 1977.

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 136897 (Sub No. 19), Swift Transportation Co., Inc. now being assigned March 2, 1977 (1 day) at Los Angeles, California in a hearing room to be later designated.

MC 142071 Sub 1, American Terminal, Inc. now assigned February 1, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C. is cancelled, application dismissed.

MC 119632 Sub 66, Reed Lines, Inc. now assigned Jannary 31, 1977 at Columbus, Ohio is cancelled, application dismissed.

MC–F 12811, Chicago-St. Louis Transport, Inc.—Purchase—Airline Cartage, Inc. and MC 134493 Sub 2, Chicago-St. Louis Transport, Inc., now being assigned March 21, 1977 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MX 134922 (Sub-192), B. J. McAdams, Inc., now being assigned March 15, 1977 (1 day), at Columbus, Ohio; in a hearing room to be later designated.

MC 134150 (Sub-7), Southwest Equipment Rental, Inc., dba Southwest Motor Freight, now being assigned March 16, 1977 (1 day) at Columbus, Ohio; in a hearing room to be later designated.

MC 41406 (Sub-54), Artim Transportation System, Inc.; MC 95876 (Sub-188), Anderson Trucking Service, Inc; MC 106674 (Sub-208), Schilli Motor Lines, Inc.; MC 112304 (Sub-111), Ace Doran Hauling & Rigging Co.; MC 117068 (Sub-No. 70), Midwest Specialized Transportation, Inc.; MC 119774 (Sub-90), Eagle Trucking Company; MC 120737 (Sub-40), Star Delivery & Transfer, Inc.; MC 123407 (Sub-313), Sawyer Transport, Inc.; MC 138144 (Sub-12), Fred Olson Co., Inc. and MC 138741 (Sub-22), E. K. Motor Service, Inc., now being assigned March 17, 1977 (2 days) at Columbus, Ohio, in a hearing room to be later designated.

MC 33641 (Sub-126), IML Freight, Inc., now assigned January 10, 1977 at Boise, Idaho, will be held in Room 429 Federal Building, 550 West Port Street; instead of Owyhee Plaza Hotel, 11th & Main Streets.

MC 140146 Sub 4, Jeffery P. Jenks, dba Jenks Cartage Co. now assigned January 14, 1977 at Columbus, Ohio and will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 119632 Sub 68, Reed Lines, Inc. now assigned January 12, 1977 at Columbus, Ohio and will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 138991 Sub 14, K.J. Transportation, Inc., now assigned January 13, 1977 at Columbus, Ohio and will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 124939 Sub 9, Food Haul, Inc. now assigned January 11, 1977 at Columbus, Ohio and will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

AB 19 Sub 19, Baltimore and Ohio Railroad Company Abandonment Portion of the Ohio and Little Kanawha Branch Between Relief and Philco, in Muskingum, Morgan and Washington Counties, Ohio now assigned January 17, 1977 at McConnelsville, Ohio and will be held at the Courthouse, 19 East Main Street.

MC 136899 (Sub-18), Higgins Transportation Ltd., now assigned February 23, 1977 at Chicago, Illinois; will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 123407 (Sub-306), Sawyer Transport, Inc., now assigned February 24, 1977 at Chicago, Illinois; will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 118159 (Sub-176), National Refrigerated Transport, Inc., now assigned February 28, 1977 at Chicago, Illinois; will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 119657 (Sub-22), George Transit Line, Inc., now assigned March 1, 1977 at Chicago, Illinois, will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 123407 (Sub-309), Sawyer Transport, Inc., now assigned March 3, 1977 at Chicago, Illinois; will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 135518 Sub 4, Everett Trucking, Inc. now being assigned February 14, 1977 (1 week) at San Francisco, California in a hearing room to be later designated.

FD 28322, Chicago, South Shore and South Bend Railroad Discontinuance of all Passenger Train Service, now being assigned continued hearing January 17, 1977 (1 day) at Chicago, Illinois; in Court Room 1903 Everett McKinley Dirksen Building, 219 South Dearborn Street.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77–630 Filed 1–6–77;8:45 am]

[Amdt. No. 2 to Exemption No. 126]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

To All Railroads: Upon further consideration of Exemption No. 126 issued June 28, 1976.

It is ordered, That under authority vested in me by Car Service Rule 19, Exemption No. 126 to the Mandatory Car Service Rules ordered in Ex Parte No. 241

be, and it is hereby, amended to expire March 31, 1977.

This amendment shall become effective December 31, 1976.

Issued at Washington, D.C., December 26, 1976.

INTERSTATE COMMERCE COMMISSION,
LEWIS R. TEEPLE,
Agent.

[FR Doc.77-627 Filed 1-6-77;8:45 am]

[Amdt. No. 5 to Corrected Exemption No. 104]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

Upon further consideration of Corrected Exemption No. 104 issued October 7, 1975.

It is ordered, That under the authority vested in me by Car Service Rule 19, Corrected Exemption No. 104 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby, amended to expire March 31, 1977.

This amendment shall become effective December 31, 1976.

Issued at Washington, D.C., December 23, 1976.

INTERSTATE COMMERCE COMMISSION,
LEWIS R. TEEPLE,
Agent.

[FR Doc.77-628 Filed 1-6-77;8:45 am]

[Amdt. No. 6 to Exemption No. 95]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

To: Bessemer and Lake Erie Railroad Company, Norfolk and Western Railway Company. Upon further consideration of Exemption No. 95 issued February 5, 1975.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 95 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire March 31, 1977.

This amendment shall become effective December 31, 1976.

Issued at Washington, D.C., December 23, 1976.

INTERSTATE COMMERCE COMMISSION,
LEWIS R. TEEPLE,
Agent.

[FR Doc.77-629 Filed 1-6-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 4, 1977.

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 January 24, 1977.

FSA No. 43294—*Pipeline Rates—Petroleum Products from the Southwest.* Filed by William Pipe Line Company, (No. 8), for interested carriers. Rates on petroleum products, as described in the application, from specified points in Kansas, Oklahoma, and Texas, to specified points in Missouri, Iowa, and Illinois.

Grounds for relief—Market and carrier competition.

Tariffs—William Pipe Line Company tariffs Nos. 6, 3-B, and 4, I.C.C. Nos. 8, 10, and 5. Rates are published to become effective on February 1, 1977, and later.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-632 Filed 1-6-77;8:45 am]

[Notice No. 1]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 4, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 35807 (Sub-No. 65TA), filed December 21, 1976. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, Ga. 30302. Applicant's representative: David E. Wells (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Currency, coin securities and other negotiable instruments*, between Salt Lake City, Utah and the cities of Ontario, Nyssa and Vale, Oreg., under a continuing contract with Federal Reserve Bank of San Francisco, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Federal Reserve Bank of San Francisco, 400 Sasome St., San Francisco, Calif. 94120. Send protests to: William L. Scroggs, District Supervisor, 1252 W. Peachtree St., N.W., Room 546, Interstate Commerce Commission, Atlanta, Ga. 30309.

No. MC 44639 (Sub-No. 90TA), filed December 20, 1976. Applicant: L. & M. EXPRESS COMPANY, INC., 220 Ridge Road, Lyndhurst, N.J. 07071. Applicant's representative: Robert B. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials and supplies* used in the manufacture of wearing apparel (except commodities in bulk), between Dublin, Independence and Rural Retreat, Va., on the one hand, and on the other, Lyndhurst, N.J., and New York, N.Y., Applicant intends to interline at Lyndhurst, N.J., and New York, N.Y., for 180 days. Supporting Shipper: Danskin Inc., State St., opposit Chestnut St., York, Pa. 17403. Send protests to: Julia M. Papp, Transportation Assistant, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 46313 (Sub-No. 14TA), filed December 21, 1976. Applicant: SUHR TRANSPORT, 117 Park Drive South, P.O. 1717, Great Falls, Mont. 59401. Applicant's representative: H. H. Lowthian, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement; hydraulic, masonry, mortar, natural or portland*, in bulk and in bags, from Montana City, Mont., to points in Duchesne, Uinta, Daggett and Summit Counties, Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: F. E. Heiser, Assistant Manager, Traffic-Marketing Services, Rocky Mountain Division, Kaiser Cement & Gypsum Corporation, 515 N. Sanders, Helena, Mont. 59601. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Ave., North, Billings, Mont. 59101.

No. MC 64932 (Sub-No. 570TA), filed December 21, 1976. Applicant: ROGERS CARTAGE CO., 10735 S. Cicero Ave., Oak

Lawn, Ill. 60453. Applicant's representative: William F. Farrell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Maleic anhydride*, in bulk, in tank vehicles, from the plantsite of Ashland Chemical Co., at or near Neal, W. Va., to points in Illinois, Indiana, Michigan, Missouri, Ohio and Wisconsin, for 180 days. Supporting shipper: Ashland Chemical Company, William A. Thompson, Assistant, Traffic Manager, P.O. Box 2219, Columbus, Ohio 43216. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 82841 (Sub-No. 202TA), filed December 21, 1976. Applicant: HUNT TRANSPORTATION, INC., 10707 I St., Omaha, Nebr. 68127. Applicant's representative: William E. Christensen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Belle Fourche, S. Dak., to points in Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John C. Mares, President, Southwestern Sales, Inc., P.O. Box 14703. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 103051 (Sub-No. 385TA), filed December 21, 1976. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave., North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid arsenic acid*, in bulk, in tank vehicles, from Bonham, Tex., to Conley, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Koppers Company, Inc., 850 Koppers Bldg., Pittsburgh, Pa. 15219. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 107515 (Sub-No. 1043TA), filed December 22, 1976. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, S.E., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road, N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and facilities of Landy of Wisconsin, Inc., Eau Claire, Wis., to points in Arizona, California, New Mexico, Oregon and Washington, for 180 days. Supporting shipper: Landy of Wisconsin, Inc., P.O. Box 1265, Eau Claire, Wis. 54701. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 107515 (Sub-No. 1044TA), filed December 21, 1976. Applicant: REFRIGERATED TRANSPORT COMPANY, INC., P.O. Box 308, 3901 Jonesboro Road, S.E., Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road, N.E., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, and meat products and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and facilities of Landy of Wisconsin, Inc., Eau Claire, Wis., to points in Georgia, North Carolina, South Carolina, Tennessee, Florida, Louisiana, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Landy of Wisconsin, Inc., P.O. Box 1265, Eau Claire, Wis. 54701. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 109533 (Sub-No. 83TA), filed December 20, 1976. Applicant: OVERNITE TRANSPORTATION COMPANY, 1000 Semmes Ave., Richmond, Va. 23224. Applicant's representative: C. H. Swanson, P.O. Box 1216, Richmond, Va. 23209. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as described by the Commission, commodities in bulk and those requiring special equipment), serving the plantsite of Johnson Controls, Inc., located at or near Georgetown, Ky. Applicant intends to tack its existing authority with MC 109533 (Sub-No. 42). Applicant also intends to interline at Atlanta, Ga.; Birmingham, Ala.; Charleston, W. Va.; Baltimore, Md.; Richmond, Va.; Charlotte, N.C., Jacksonville, Fla.; Louisiana, Ky., and Memphis, Tenn., for 180 days. Supporting shipper: Johnson Controls, Inc., James R. Hoogenboom, Traffic Manager, P.O. Box 544, Georgetown, Ky. 40324. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502 Federal Bldg., 400 N. 8th St., Richmond, Va. 23240.

No. MC 110988 (Sub-No. 337TA), filed December 21, 1976. Applicant: SCHNEIDER TANK LINES, INC., 200 W. Cecil St., Neenah, Wis. 54956. Applicant's representative: Neil DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid ferrous chloride*, from Monroe, Ohio, to the facilities of K. A. Steel Chemicals, Inc., located at or near Gary, Ind., and Lemont, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: K. A. Steel Chemicals, Inc., 2700 River Road, Des Plaines, Ill. 60018. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 111401 (Sub-No. 474TA), filed December 21, 1976. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furfural aldehyde*, in bulk, in tank vehicles, from Brownsville, Tex., to Houston, Tex., restricted to shipments in foreign commerce only, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: ICC Industries, Inc., 3701 Kirby Drive, Suite 828, Houston, Tex. 77098. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 111401 (Sub-No. 475TA), filed December 21, 1976. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral water* (industrial waste sludge), in bulk, from Tinker Air Force Base, Oklahoma City, Okla., to Bio-Ecology Systems, Inc., at Grand Prairie, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Department of Defense, Chief, Regulatory Law Office, Office of the Judge Advocate General, Dept. of the Army, Washington, D.C. 20310. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 114284 (Sub-No. 75TA), filed December 21, 1976. Applicant: FOX-SMYTHE TRANSPORTATION CO., 1700 S. Portland, P.O. Box 82307, Oklahoma City, Okla. 73108. Applicant's representative: M. W. Thompson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, articles distributed by meat packinghouses and foodstuffs* (except hides and commodities in bulk), from the plantsite and or warehouse facility utilized by

George A. Hormel & Co., at or near Fremont, Nebr., to points in Kansas and Missouri, restricted to product originating at named origin and destined to named states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: George A. Hormel & Co., Box 800, Austin, Minn. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 114725 (Sub-No. 75TA), filed December 22, 1976. Applicant: WYNNE TRANSPORT SERVICE, INC., 2222 N. 11th St., Omaha, Nebr. 68110. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed*, in bulk, in tank vehicles, from Shickley, Nebr., to points in Iowa, Illinois and Kansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Biegert Bros. Fertilizer and Feed Co., Jeff Biegert, Manager, Shickley, Nebr. 68436. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 114896 (Sub-No. 42 TA), filed December 17, 1976. Applicant: PUROLATOR SECURITY, INC., 1111 W. Mockingbird Lane, Suite 1401, Dallas, Tex. 75247. Applicant's representative: Elizabeth L. Henoch, 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Credit cards and magnetic tape*, between Garrison, Md., and Trenton, N.J., under a continuing contract with Malco Plastics, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Malco Plastics, Inc., Plastics Park, Garrison, Md. 21055. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 116947 (Sub-No. 52TA), filed December 21, 1976. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby St., S.W., Atlanta, Ga. 30310. Applicant's representative: William Addams, Suite 212, 5299 Roswell Road, N.E., Atlanta, Ga. 30342. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fibre cans, and can ends, aluminum, steel or tin*, from the plantsite of Container Corporation of America, in Fulton County, Ga., to points in Alabama, Florida, Illinois, Kentucky, Indiana, Louisiana, Maryland, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee and Virginia; *and materials and supplies* (except commodities in bulk) used in the manufacture and distribution of fibre cans and can ends, from the destination states to the plantsite of Container Corporation of America in Fulton County, Ga., under a continuing contract with Container Corporation of America, for 180 days. Supporting shipper: Container Corporation of America, P.O. Box 957, Atlanta, Ga. 30301. Send protests to: William L. Scroggs, District Supervisor, 1252 W. Peachtree St., N.W., Room 546, Interstate Commerce Commission, Atlanta, Ga. 30309.

No. MC 119789 (Sub-No. 320TA), filed December 22, 1976. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from El Paso, Tex., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Michigan, Massachusetts, Rhode Island, Missouri, Nebraska, New Jersey, South Carolina, Tennessee, Virginia and West Virginia, for 180 days. Supporting shipper: Prepared Foods, Inc., P.O. Box 26918, 6930 Market St., El Paso, Tex. 79915. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 124078 (Sub-No. 710TA), filed December 21, 1976. Applicant: SCHWERMAN TRUCKING COMPANY, 611 S. 28th St., Milwaukee, Wis. 53246. Applicant's representative: Richard Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magnetite*, in bulk, in tank vehicles, from Bristol, Tenn., to points in Alabama (except Birmingham), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Reiss Viking Corporation, P.O. Box 688, Sheboygan, Wis. 53081. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., & Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 126276 (Sub-No. 162TA), filed December 21, 1976. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: Albert A. Andrin, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from Millis, Mass., to St. Paul, Minn., under a continuing contract with National Can Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National Can Corporation, Floyd C. Stone, District Supervisor, 8101 W. Higgins, Chicago, Ill. 60631. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 126276 (Sub-No. 163TA), filed December 21, 1976. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: James C. Hardman, 33 N. La Salle St., Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and containers closures*, from Chicago, Ill., to Jeanette, Pa., and Jonesboro, Ark., under a continuing contract with The Continental Group, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Continental Group, Inc., James R. Jandora, Analyst—Traffic & Distribution, 150 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 126276 (Sub-No. 164TA), filed December 17, 1976. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, Ill. 60513. Applicant's representative: Albert A. Andrin, 180 N. La Salle St., Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from Totowa and Plainfield, N.J., to Sharonville, Ohio, under a continuing contract with National Can Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: National Can Corporation, Floyd C. Stone, District Manager, 8101 W. Higgins Road, Chicago, Ill. 60631. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 12725 (Sub-No. 543TA), filed December 17, 1976. Applicant: R. A. CORBETT TRANSPORT, INC., P.O. Box 728, Waskom, Tex. 75692. Applicant's representative: Kenneth Sitton, FM 9 South, Waskom, Tex. 75692. Authority sought ot operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contaminated water*, from Tinker Air Force Base, Okla., to Grand Prairie, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Department of Defense, Office of The Judge Advocate General, Department of the Army, Washington, D.C. 20310. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 133966 (Sub-No. 46TA), filed December 21, 1976. Applicant: NORTH

EAST EXPRESS, INC., P.O. Box 127, Mountaintop, Pa. 18707. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave., & 13th St., N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cellular or expanded plastic sheet*, from West Hazleton, Pa., to points in Ohio, Illinois, Indiana, Minnesota and Wisconsin, for 180 days. Supporting shipper: Tenneco Chemicals, Foam and Plastics Division, West 100 Century Road, Paramus, N.J. 07652. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 135425 (Sub-No. 22TA), filed December 21, 1976. Applicant: CYCLES LIMITED, P.O. Box 5715, Jackson, Miss. 39208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a manufacturer whose products are sold in drug, variety and food stores (except in bulk), from Andover, Mass., and St. Paul, Minn., to La Mirada, Calif., and Kent, Wash., under a continuing contract with The Gillette Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Gillette Company, 30 Burtt Road, Andover, Mass. 01810. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 E. Amite Bldg., Jackson, Miss. 39201.

No. MC 140469 (Sub-No. 7TA), filed December 21, 1976. Applicant: FUNCTIONAL MARKETING SYSTEM, INC., 147-02 Liberty Ave., Jamaica, N.Y. 11435. Applicant's representative: Larsh B. Mewhinney, 235 Mamaroneck Ave., White Plains, N.Y. 10605. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Books, and educational materials, equipment and supplies*, between points in New Jersey and New York City, N.Y., on the one hand, and, on the other, points in Fairfield County, Conn.; New Castle County, Del.; Putnam County, N.Y.; Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, Pa., under a continuing contract with Field Enterprises Educational Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Field Enterprises Educational Corporation, Merchandise Mart Plaza, Chicago, Ill. 60654. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 140792 (Sub-No. 2TA), filed December 20, 1976. Applicant: STANLEY E. WHITEHEAD, 1017 Third Ave., Monroe, Wis. 53566. Applicant's representative: Wayne W. Wilson, 329 W. Wilson St., P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients* (except in bulk, in tank vehicles), from the facilities of Milk Specialties Co., a Division of Cudahy Foods Co., at or near Browntown, Wis., to Peoria, Ill., for 180 days. Supporting shipper: Milk Specialties Co., a Division of Cudahy Foods Co., P.O. Box 278, Dundee, Ill. 60118. Send protests to: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 142025 (Sub-No. 3TA), filed December 23, 1976. Applicant: DON FOWLER, doing business as FOWLER'S MOBILE HOME TRANSIT, Rt. 1, Box 48, Winchester, Va. 22601. Applicant's representative: Frank B. Hand, Jr., P.O. Box 187, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes*, between points in Winchester, Va., Commercial Zone (except Winchester, Va.), on the one hand, and, on the other, points in Prince Georges County, Md., and points in Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral, Morgan, Pendleton, Randolph and Tucker Counties, W. Va., for 180 days. Supporting shippers: There are approximately 6 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Interstate Commerce Commission, 12th & Constitution Ave., N.W., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 141247 (Sub-No. 6TA), filed December 21, 1976. Applicant: PILGRIM TRUCKING COMPANY, P.O. Box 77, Cleveland, Ga. 30528. Applicant's representative: Jeffrey Kohlman, Suite 400, 1447 Peachtree St., N.E., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Cleveland, Ga., to points in Illinois, Indiana, Michigan, Ohio, Pennsylvania and West Virginia, under a continuing contract with Appalachian Industries, Inc., for 180 days. Supporting shipper: Appalachian Industries, Inc., Route 75, Cleveland, Ga. 30528. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 142231 (Sub-No. 2TA), filed December 21, 1976. Applicant: TRI-L CONTRACT CARRIER, INC., 2400 Tower Place, 3340 Peachtree Road, N.E., Atlanta, Ga. 30326. Applicant's representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road, N.E., Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wire impregnated iron or steel pipe, and iron or steel articles;* and (2) *such commodities* as are used by or are useful in the manufacture, distribution or sale of wire impregnated iron or steel pipe and iron and steel articles (except commodities in bulk and commodities which because of size or weight require special equipment), between the plantsite and facilities utilized by the Oxylance Corporation in Fulton County, Ga., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract with Oxylance Corporation, for 180 days. Supporting shipper: Oxylance Corporation, 3340 Peachtree Road, N.E., 2400 Tower Place, Atlanta, Ga. 30326. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, 1252 W. Peachtree St., N.W., Room 546, Atlanta, Ga. 30309.

PASSENGER APPLICATION

No. MC 453 (Sub-No. 24TA), filed December 22, 1976. Applicant: THE GRAY LINES, INC., 1000 12th St., N.W., Washington, D.C. 20005. Applicant's representative: L. C. Majors, Jr., Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, Va. 22312. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage* in special operations, during the official racing seasons, between Washington, D.C., and Dover Downs Race Track, at or near Dover, Del.; from Washington, D.C., over U.S. Highway 50 to Junction U.S. Highway 301, thence over U.S. Highway 301 to Junction Maryland Highway 300, thence over Maryland Highway 300 to the Maryland-Delaware State line, thence over Delaware Highway 300 to Junction Delaware Highway 44, thence over Delaware Highway 44 to Junction Delaware Highway 8, thence over Delaware Highway 8 to Junction U.S. Highway 13, thence over U.S. Highway 13 to Dover Downs Race Track, and return over the same route, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 9 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, Room 1413, 12th & Constitution Ave., N.W., Washington, D.C. 20423.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-631 Filed 1-6-77;8:45 am]

federal register

FRIDAY, JANUARY 7, 1977

PART II



DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

■

FIDUCIARY RESPONSIBILITY

Employer Securities and Employer Real Property

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

[29 CFR Part 2550]

RULES AND REGULATICNS FOR FIDUCIARY RESPONSIBILITY

Proposed Regulations Relating to the Acquisition and Holding of Employer Securities and Employer Real Property and the Requirement That Certain Employer Securities and Employer Real Property Be Divested No Later Than December 31, 1979

Notice is hereby given that the Department of Labor (the Department) has under consideration a proposal to adopt regulations, 29 CFR 2550.407a-1, 2550.-407a-2, 2550.407a-3 and 2550.407a-4 under sections 407(a)(1), 401(a)(2), 401(a)(3) and 407(a)(4) of the Employee Retirement Income Security Act of 1974 (the Act) with respect to the acquisition and holding of employer securities and employer real property by certain employee benefit plans, and the requirement that certain employer securities and employer real property held by such plans be divested no later than December 31, 1979.

PREAMBLE

Section 407(a) of the Act prohibits all employee benefit plans from acquiring or holding any employer security or employer real property which is not a qualifying employer security or qualifying employer real property. The terms "employer security" and "employer real property" are defined in sections 407(d)(1) and (2) of the Act.[1] The term "qualifying employer security" is defined in section 407(d)(5) of the Act and in proposed regulation § 2550.407d-5 (41 FR 31870, July 30, 1976). The term "qualifying employer real property" is defined in section 407(d)(4) of the Act.

Section 407(a) also sets forth certain limitations with respect to the acquisition and holding of qualifying employer securities and qualifying employer real property. Section 407(a)(3) of the Act provides that after December 31, 1984, a plan (other than an eligible individual account plan within the meaning of section 407(d)(3) of the Act) may not hold any qualifying employer securities or qualifying employer real property (or both) to the extent that the aggregate fair market value of such securities and real property exceeds 10 percent of the fair market value of the plan's assets, determined in accordance with the requirements of section 407(a)(3). Under section 407(c) of the Act, a plan which satisfies the requirements of section 407(c)(3) may elect an alternative means of complying with the terms of section 407(a)(3) regarding the holding of employer securities. See 29 CFR 2550.407c-3 (41 FR 43726, September 23, 1975).

Section 407(a)(4)(B) of the Act provides that not later than December 31, 1976, the Department shall prescribe regulations which shall have the effect of requiring that a plan subject to the requirements of section 407(a)(3) or 407(c) divest 50 percent of its holdings of employer securities and real property which the plan would be required to divest before January 1, 1985.

Section 406(a) of the Act prohibits a fiduciary from knowingly causing a plan to engage in a transaction which would be in violation of section 407(a). Sections 414(c)(1) and (2) contain transitional rules which delay the effective date of sections 406 and 407(a) for certain loan and lease transactions. The proposed regulations set forth below establish requirements with respect to the divestiture of employer securities and employer real property by December 31, 1979, pursuant to section 407(a)(4) of the Act and interpret certain relationships between section 407(a) and sections 407(c) and 414(c)(1) and (2) of the Act.

Although the proposed regulations prescribe certain rules for determining the fair market value of employer real property, employer securities and other plan assets for purposes of section 407(a) of the Act, the Department ordinarily will not issue opinions as to whether the value ascribed to any parcel of employer real property, any employer security or any other plan asset constitutes fair market value. In this regard, reference is made to section 5.02(p) of ERISA Procedure 76-1 (41 FR 36281, August 27, 1976), the Department's Advisory Opinion Procedure.

The following points should be noted with respect to the proposed regulations:

(1) Section 407(a)(4)(B) requires divestiture of 50 percent of the holdings of employer securities and employer real property which are required to be divested before January 1, 1985, "under paragraph (2) (of section 407(a)) or subsection (c) (whichever is applicable)." However, section 407(a)(2) does not refer to "holding" of employer securities and employer real property, but refers to the acquisition of qualifying employer securities and qualifying employer real property. The "holding" limitation of section 407(a) is contained in paragraph (3). The proposed regulations take the position that the statutory reference to "paragraph (2)" is erroneous, and should have been to "paragraph (3)". See the last sentence of § 2550.407a-4(a). Not only is this position consistent with the Joint Explanatory Statement of the Managers of the Committee of Conference (H.R. Rep. No. 93-1280, 93d Cong., 2d Sess. (1974) 318-320), but is also necessary to give meaning to the divestiture requirements of section 407(a)(4).

(2) Section 407(b)(1) provides that the 10 percent limitation and related rules contained in section 407(a) with respect to the acquisition, holding and divestiture of qualifying employer securities and qualifying employer real property do not apply to the acquisition or holding of qualifying employer securities or qualifying employer real property by an eligible individual account plan. Section 407(d)(3) defines an eligible individual account plan as an individual account plan which is a profit sharing, stock bonus, thrift or savings plan, an employee stock ownership plan, or a money purchase plan which was in existence on the date of the enactment of the Act and which on such date invested primarily in qualifying employer securities. In addition, section 407(d)(3) provides that a plan shall be treated as an eligible individual account plan with respect to the acquisition or holding of qualifying employer real property or qualifying employer securities only if such plan explicitly provides for the acquisition and holding of qualifying employer securities or qualifying employer real property. Because eligible individual account plans are not subject to the limitations of section 407(a)(2) and (3), such plans are not subject to the divestiture requirements of section 407(a)(4) of the Act.

(3) Section 407 does not distinguish between single employer plans and multiple employer plans regarding its acquisition, holding and divestiture rules and, consequently, the proposed regulations contain no such distinction. However, the Department recognizes that the 10 percent limitation, applied to qualifying employer securities of all contributing employers in the aggregate, may impose a restraint on investment that is not administratively feasible or is otherwise inappropriate for certain multiple employer plans. Accordingly, the Department specifically solicits comments regarding the particular problems multiple employer plans have encountered or will encounter in complying with the 10 percent limitation in section 407(a) and the manner in which the Department should deal with those problems.

The regulations set forth below are proposed pursuant to the authority contained in section 407(a)(4)(B) of the Act (Pub. L. 93-406, 88 Stat. 880 (29 U.S.C. 1107)), and section 505 of the Act (Pub. L. 93-406, 88 Stat. 894 (29 U.S.C. 1135)).

All interested persons are invited to submit written data, views or arguments concerning the proposed regulations set forth herein. Three copies of such written data, views or arguments should be submitted on or before February 22, 1977 to Pension and Welfare Benefit Programs, Office of Regulatory Standards and Exceptions, Room C4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210. Attention: Proposed §§ 2550.407a-1 et al.

All written submissions will be open to public inspection at the Public Documents Room, Pension and Welfare Benefit Programs, Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Proposed regulations. Accordingly, it is proposed to amend Part 2550 of Chapter XXV of Title 29 of the Code of Fed-

[1] The term "employer security" is defined as a security issued by an employer of employees covered by the plan or by an affiliate of such employer. "Employer real property" is defined as real property (and related personal property) which is leased to an employer of employees covered by the plan, or to an affiliate of such employer.

eral Regulations by inserting §§ 2550.407 a–1, 2550.407a–2, 2550.407a–3 and 2550.-407a–4 as set forth below.

PAR. 1. Section 2550.401a–1 is inserted in the appropriate place to read as set forth below:

§ 2550.407a–1 General rule for the acquisition and holding of employer securities and employer real property.

(a) *In general.* Section 407(a)(1) of the Employee Retirement Income Security Act of 1974 (the Act) states that except as otherwise provided in section 407 and section 414 of the Act, a plan may not acquire or hold any employer security which is not a qualifying employer security or any employer real property which is not qualifying employer real property. Section 406(a)(1)(E) prohibits a fiduciary from knowingly causing a plan to engage in a transaction which constitutes a direct or indirect acquisition, on behalf of a plan, of any employer security or employer real property in violation of section 407(a), and section 406(a)(2) prohibits a fiduciary who has authority or discretion to control or manage assets of a plan to permit the plan to hold any employer security or employer real property if he knows or should know that holding such security or real property violates section 407(a).

(b) *Requirements applicable to all plans.* A plan may hold or acquire only employer securities which are qualifying employer securities and employer real property which is qualifying employer real property. A plan may not hold employer securities and employer real property which are not qualifying employer securities and qualifying employer real property, except to the extent that:

(1) The employer security is held by a plan which has made an election under section 407(c)(3) of the Act; or

(2) The employer security is a loan or other extension of credit which satisfies the requirements of section 414(c)(1) of the Act or the employer real property is leased to the employer pursuant to a lease which satisfies the requirements of section 407(c)(3) of the Act; or

PAR. 2. Section 2550.407a–2 is inserted in the appropriate place to read as set forth below:

§ 2550.407a–2. Limitation with respect to the acquisition of qualifying employer securities and qualifying employer real property.

(a) *In general.* Section 407(a)(2) of the Employee Retirement Income Security Act of 1974 (the Act) provides that a plan may not acquire any qualifying employer security or qualifying employer real property, if immediately after such acquisition the aggregate fair market value of qualifying employer securities and qualifying employer real property held by the plan exceeds 10 percent of the fair market value of the assets of the plan.

(b) *Acquisition.* For purposes of section 407(a) of the Act, an acquisition by a plan of qualifying employer securities or qualifying employer real property shall include, but not be limited to, an acquisition by purchase, by the exchange of plan assets, by the exercise of warrants or rights, by the conversion of a security (except any acquisition pursuant to a conversion exempt under section 408(b)(7) of the Act), by default of a loan where the qualifying employer security or qualifying employer real property was security for the loan, or by the contribution of such securities or real property to the plan. However, an acquisition of a security shall not be deemed to have occurred if a plan acquires the security as a result of a stock dividend or stock split.

(c) *Fair market value—Indebtedness incurred in connection with the acquisition of a plan asset.* In determining whether a plan is in compliance with the limitation on the acquisition of qualifying employer securities and qualifying employer real property in section 407(a)(2), the limitation on the holding of qualifying employer securities and qualifying employer real property in section 407(a)(3) and § 2550.407a–3 thereunder, and the requirement regarding the disposition of employer securities and employer real property in section 407(a)(4) and § 2550.407a–4 thereunder, the fair market value of total plan assets shall be the fair market value of such assets less the unpaid amount of:

(1) Any indebtedness incurred by the plan in acquiring such assets;

(2) Any indebtedness incurred before the acquisition of such assets if such indebtedness would not have been incurred but for such acquisition; and

(3) Any indebtedness incurred after the acquisition of such assets if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition. However, the fair market value of qualifying employer securities and qualifying employer real property ably foreseeable at the time of such assets without any reduction for the unpaid amount of any indebtedness incurred by the plan in connection with the acquisition of such employer securities and employer real property.

(d) *Examples.* (1) Plan assets have a fair market value of $100,000. The plan has no liabilities other than liabilities for vested benefits of participants and does not own any employer securities or employer real property. The plan proposes to acquire qualifying employer securities with a fair market value of $10,000 by paying $1,000 in cash and borrowing $9,000. The fair market value of plan assets would be $100,000 ($100,000 of plan assets less $1,000 cash payment plus $10,000 of employer securities less $9,000 indebtedness), the fair market value of the qualifying employer securities would be $10,000, which is 10 percent of the fair market value of plan assets. Accordingly, the acquisition would not contravene section 407(a).

(2) Plan assets have a fair market value of $100,000. The plan has liabilities of $20,000 which were incurred in connection with the acquisition of those assets, and does not own any employer securities or employer real property. The plan proposes to pay cash for qualifying employer securities with a fair market value of $10,000. The fair market value of plan assets would be $80,000 ($100,000 of plan assets less $10,000 cash payment plus $10,000 of employer securities less $20,000 indebtedness), the fair market value of the qualifying employer securities would be $10,000, which is 12.5 percent of the fair market value of plan assets. Accordingly, the acquisition would contravene section 407(a).

PAR. 3. Section 2550.407a–3 is inserted in the appropriate place to read as set forth below:

§ 2550.407a–3 Limitation with respect to the holding of qualifying employer securities and qualifying employer real property.

(a) *In general.* (1) Section 407(a)(3) of the Employee Retirement Income Security Act of 1974 (the Act) provides that a plan (other than an eligible individual account plan) may not hold, after December 31, 1984, any qualifying employer securities or qualifying employer real property (or both) to the extent that the aggregate fair market value of such securities and property, determined on December 31, 1984, exceeds 10 percent of the greater of:

(i) The fair market value of the assets of the plan, determined on December 31, 1984, or

(ii) The fair market value of the assets of the plan determined on January 1, 1975.

(2) Section 407(a)(3)(B) makes section 407(a)(3)(A) inapplicable to a plan which on any date after December 31, 1974, and before January 1, 1985, did not hold qualifying employer securities or qualifying employer real property (or both) the aggregate fair market value of which determined on such date exceeded 10 percent of the greater of:

(i) The fair market value of the assets of the plan, determined on such date, or

(ii) The fair market value of the assets determined on January 1, 1975.

(b) *Ten percent limitation.* (1) The requirement of section 407(a)(3) that a plan hold no more than 10 percent of the fair market value of its assets in qualifying employer securities or qualifying employer real property (or both) can be met at any time between December 31, 1974, and January 1, 1985. In accordance with section 407(a)(3)(B) of the Act, if at any time between December 31, 1974 and January 1, 1985, the fair market value of qualifying employer securities and qualifying employer real property does not exceed 10 percent of the fair market value of total plan assets, the plan will be in compliance with the holding requirements of section 407(a)(3), notwithstanding any subsequent increase in such percentage above 10 percent which occurs as the result of changes in the fair market value of either the qualifying employer securities or qualifying employer real property, or the other assets of the plan. Moreover, if such percentage falls below 10 percent, the plan may acquire additional qualifying employer securities or qualifying

employer real property not to exceed the limitation on such acquisitions contained in section 407(a)(2).

(2) *Example.* On January 1, 1975 a plan holds qualifying employer securities and qualifying employer real property with a fair market value of $200,000 and has total assets with a fair market value of $1,000,000. The plan would have to divest qualifying employer securities or qualifying employer real property with a value of $100,000 to comply with section 407(a)(3). If, however, there is a substantial rise in the market value of the plan's other assets in 1976 and the first quarter of 1977 so that the fair market value of total plan assets on March 31, 1977, is $2,000,000, but the aggregate fair market value of the qualifying employer securities and qualifying employer real property is still $200,000, the 10 percent holding requirement of section 407(a)(3) would have been met on March 31, 1977. Henceforth, the plan would not be subject to the holding limitations of section 407(a)(3), but only the limitations regarding the acquisition of qualifying employer securities and qualifying employer real property set forth in section 407(a)(2) of the Act. If the plan does not acquire any additional employer securities or employer real property, and if in 1978, the fair market value of other plan assets decreases to $1,500,000 while the fair market value of qualifying employer securities and qualifying employer real property held by the plan remains at $200,000, or even increases to $300,000, the plan will not contravene the holding requirement of section 407(a)(3), inasmuch as the plan was in compliance with that requirement on March 31, 1977. If, on February 1, 1980, the fair market value of total plan assets is $2,500,000 and the fair market value of qualifying employer securities and qualifying employer real property is $200,000, the plan may acquire additional qualifying employer securities and qualifying employer real property in the amount of $50,000.

(c) *Fair market value—Indebtedness incurred in connection with the acquisition of a plan asset.*

In determining whether a plan is in compliance with the limitation on the holding of qualifying employer securities and qualifying employer real property in section 407(a)(3), the fair market value of total plan assets, qualifying employer securities and qualifying employer real property for purposes of section 407(a)(3), and this section shall be determined in accordance with the provisions of § 2550.407a-2(c).

Par. 4 Section 2550.407a-4 is inserted in the appropriate place to read as set forth below:

§ 2550.407a-4 Divestiture of employer securities and real property by December 31, 1979.

(a) *In general.* Section 407(a)(4)(A) of the Employee Retirement Income Security Act of 1974 (the Act) provides that a plan may not hold, after December 31, 1979, any employer securities or employer real property in excess of the amount specified in regulations promulgated by the Secretary of Labor under section 407(a)(4)(B) of the Act. That section directs the Secretary to prescribe regulations not later than December 31, 1976, which shall have the effect of requiring a plan to divest 50 percent of the holdings of employer securities and employer real property which the plan would be required to divest before January 1, 1985, under sections 407(a)(3) or 407(c) of the Act.

(b) *Fair market value—Indebtedness incurred in connection with the acquisition of a plan asset.*

In determining whether a plan is in compliance with the requirement regarding the disposition of employer securities and employer real property set forth in section 407(a)(4), the fair market value of total plan assets, employer securities and employer real property for purposes of section 407(a)(4) and this section shall be determined in accordance with the provisions of § 2550.407a-2(c).

(c) *Fifty percent divestiture.*—(1) *Divestiture which would be required under section 407(a)(3).*

(i) A plan which would be required to divest qualifying employer securities or qualifying employer real property before January 1, 1985, pursuant to section 407(a)(3), and which has not met the requirements of that section by December 31, 1979, will be in compliance with the requirements of section 407(a)(4) of the Act and this section if the plan divests by December 31, 1979, qualifying employer securities and qualifying employer real property which have, on any date between December 31, 1974, and January 1, 1980 (hereafter referred to as the "valuation date"), a fair market value equal to 50 percent of the amount by which such qualifying employer securities and qualifying employer real property exceed 10 percent of the fair market value of plan assets as of the valuation date. For purposes of this section, the fair market value of plan assets on the valuation date, shall be deemed to be an amount equal to:

(A) The fair market value of the assets of the plan on the valuation date, or

(B) An actuarial estimate of the fair market value of the assets of the plan on any date between December 31, 1979 and January 1, 1985. The actuarial estimate under paragraph (c)(i)(B) must be made in good faith and its basis must be set forth in writing.

(ii) The fair market value of qualifying employer securities and qualifying employer real property which must be divested pursuant to paragraph (c)(i) shall be reduced by an amount equal to the fair market value of any qualifying employer security which is a loan or other extension of credit that satisfies the requirements of section 414(c)(1) of the Act or any qualifying employer real property leased to the employer pursuant to a lease that satisfies the requirements of section 414(c)(2) of the Act.

(iii) *Examples.*

(A) On January 1, 1975, the assets of a plan have a fair market value of $800,000. On December 31, 1977, plan assets have a fair market value of $900,000 and the actuarial estimate of the fair market value of plan assets as of December 31, 1984, is $1,000,000. The plan has chosen December 31, 1977, as the valuation date, and has decided that for purposes of section 407(a)(4) and § 2550.407a-4 the fair market value of plan assets on the valuation date shall be the actuarial estimate of the fair market value of plan assets as of December 31, 1984, which is $1,000,000.

The qualifying employer securities and qualifying employer real property held by the plan on December 31, 1977 have a fair market value of $200,000. A qualifying employer security, which has a fair market value of $25,000, is a loan by the plan which meets the conditions of section 414(c)(1) of the Act. The fair market value of qualifying employer securities and qualifying employer real property held by the plan exceed by $100,000, 10 percent of the greater of the fair market value of plan assets on January 1, 1975 or the valuation date. In order to comply with section 407(a)(4) of the Act and this section, the plan ordinarily would have to divest, by December 31, 1979, $50,000 of qualifying employer securities or qualifying employer real property, which would be 50 percent of the amount which exceeds 10 percent of plan assets. However, because qualifying employer securities which have a fair market value of $25,000 are held by the plan pursuant to the transitional rules of section 414(c)(1) of the Act, the plan will have to divest by December 31, 1979, only $25,000 of qualifying employer securities and qualifying employer real property because it may subtract the fair market value of any qualifying employer securities or qualifying employer real property held by the plan which satisfies the requirements of the transitional rules of section 414(c)(1) or (2) of the Act from any amounts which it is required to divest.

(B) Same facts as example (A), except that the plan has $100,000 in indebtedness outstanding, which was incurred in connection with the acquisition of a plan asset (other than qualifying employer securities or qualifying employer real property). For purposes of determining the percentage of plan assets represented by the investment in qualifying employer securities and qualifying employer real property, the fair market value of plan assets on the valuation date is $900,000 ($1,000,000 less $100,000 in indebtedness). The fair market value of qualifying employer securities and qualifying employer real property (i.e. $200,000) held by the plan exceeds 10 percent (i.e. $90,000) of the fair market value of plan assets by $110,000. In order to comply with section 407(a)(4) of the Act and this section, the plan would be required to divest $30,000 of qualifying employer securities or qualifying employer real property by December 31, 1979, which would be 50 percent of $110,000, less the fair market value of qualifying employer securities or qualifying employer real property held pursuant to section 414(c)(1) or (2) of the Act.

(2) *Divestiture which would be required under section 407(c).*

(i) Notwithstanding the prohibition of section 407(a)(1)(A) of the Act regarding the holding of employer securities, and subject to the limitations of section 407(c)(1) of the Act, section 407(c) permits a plan which has made a valid election under section 407(c)(3) to hold an employer security which is neither a qualifying employer security nor a loan or other extension of credit covered by the transitional provisions of section 414(c)(1) of the Act. An election under section 407(c) must have been made before January 1, 1976, and in accordance with § 2550.407c–3 (41 FR 43726, September 23, 1975). A plan which has made a valid election under section 407(c)(3) will be in compliance with the requirements of section 407(a)(4) of the Act and this section if, be December 31, 1979, the plan divests employer securities which have on any date between December 31, 1974 and January 1, 1980 (hereafter referred to as the "valuation date", a fair market value determined as of December 31, 1974 equal to 50 percent of the amount in excess of 10 percent of the lesser of:

(A) The fair market value of the assets of the plan determined on the valuation date (disregarding any portion of the fair market value of employer securities which is attributable to appreciation of such securities after December 31, 1974) but not less than the fair market value of plan assets on January 1, 1975, or

(B) An amount equal to the sum of (*1*) The total amount of the contributions to the plan received after December 31, 1974 and prior to the valuation date, plus (2) The fair market value of the assets of the plan, determined as of January 1, 1975.

For purposes of this paragraph (c)(2)(i)(B)(2), the fair market value of plan assets on the valuation date shall be deemed to be an amount equal to (*1*) The fair market value of the assets of the plan on the valuation date, or (2) An actuarial estimate of the fair market value of the assets of the plan on any date between December 31, 1979 and January 1, 1985. The actuarial estimate must be made in good faith and its basis must be set forth in writing.

(ii) The fair market value of employer securities which must be divested pursuant to this section shall be reduced by an amount equal to the fair market value of any employer security which is a loan or other extension of credit that satisfies the requirements of section 414(c)(1) of the Act.

(iii) *Examples.* (A) A plan has made a valid election under section 407(c) of the Act and has been in compliance with the requirements of section 407(c)(3). On January 1, 1975, total plan assets have a fair market value of $105,000 and employer securities have a fair market value of $15,000. On June 30, 1975, the fair market value of plan assets is $105,000, and the actuarial estimate of the fair market value of plan assets as of December 31, 1984 is $145,000. The plan has chosen June 30, 1975 as the valuation date and has decided that for purposes of section 407(a)(4) and § 2550.407a–4 the fair market value of plan assets on the valuation date shall be the actuarial estimate of the fair market value of assets as of December 31, 1984, which is $145,000. No contributions have been made to the plan for December 31, 1974 to June 30, 1975, and the employer securities held by the plan on June 30, 1975, are the same employer securities held on January 1, 1975. Five thousand dollars of employer securities held by the plan is a loan which meets the conditions of section 414(c)(1) of the Act. One thousand dollars of employer securities is neither qualifying employer securities nor a loan or other extension of credit covered by the provisions of section 414(c)(1). Ten percent of the fair market value of plan assets on the valuation date is $14,500; and 10 percent of the sum of the amount of contributions received after December 31, 1974, and prior to July 1, 1975 (nothing, because no contributions were received) plus the fair market value of plan assets on January 1, 1975 ($105,000) is $10,500. Ordinarily, as of December 31, 1979, the plan would have to divest employer securities in excess of 50 percent of the fair market value of the lesser of these amounts. The fair market value of employer securities held by the plan exceeds the lesser of these amounts by $4,500 and 50 percent of $4,500 is $2,250. However, because $5,000 of employer securities is a loan covered by the provisions of section 414(c)(1), the amount of employer securities which would have to be divested is reduced by $5,000. Accordingly, the plan is not required to divest any employer securities by December 31, 1979.

(B) A plan has made a valid election under section 407(c) and has been in compliance with the requirements of section 407(c)(3). On January 1, 1975, total plan assets have a fair market value of $100,000 and employer securities have a fair market value of $30,000. On April 30, 1977, the fair market value of total plan assets is $110,000, none of which is attributable to appreciation of employer securities after December 31, 1974. The actuarial estimate of the fair market value of plan assets as of December 31, 1984 is $160,000. Contributions to the plan from December 31, 1974, through April 30, 1977, total $12,000. The plan has chosen April 30, 1977 as the valuation date, and has decided that the fair market value of plan assets on the valuation date shall be the actuarial estimate of the fair market value of plan assets as of December 31, 1984, which is $160,000. The employer securities held on April 30, 1977, are the same employer securities held on January 1, 1975. Ten percent of the fair market value of plan assets on the valuation date is $16,000; and 10 percent of the sum of the amount of contributions received after December 31, 1974 and prior to May 1, 1977, plus the fair market value of plan assets on January 1, 1975, is $11,200. The fair market value of employer securities held by the plan exceeds the lesser of these two amounts by $18,800. In order to comply with section 407(a)(4) of the Act and this section, the plan would be required to divest, by December 31, 1979, $9,400 of employer securities.

Signed at Washington, D.C., this 30th day of December, 1976.

WILLIAM J. CHADWICK,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.76-38493 Filed 12-30-76;12:35 pm]

federal register

FRIDAY, JANUARY 7, 1977

PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

DRUG PRODUCTS

Bioequivalence Requirements and In Vivo Bioavailability Procedures

Title 21—Food and Drugs

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

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 75N-0050]

PART 314—NEW DRUG APPLICATIONS

PART 320—BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

Procedures for Establishing a Bioequivalence Requirement

The Food and Drug Administration (FDA) is issuing final regulations defining certain terms relating to bioequivalence and setting forth procedures for establishing a bioequivalence requirement. These regulations are effective on February 7, 1977.

In the FEDERAL REGISTER of June 20, 1975 (40 FR 26164), the Commissioner of Food and Drugs proposed procedures for establishing a bioequivalence requirement when there is evidence that drug products containing the same active drug ingredient or therapeutic moiety and intended to be used interchangeably for the same therapeutic effect are not or might not be bioequivalent drug products. The Commissioner also proposed to define certain terms relating to bioequivalence and to amend the regulations to specify that failure to submit required bioavailability or bioequivalence data is reason for refusal to approve, or reason to withdraw approval of, a new drug application (NDA). Interested persons were invited to submit comments regarding the proposed regulations on or before August 4, 1975. In response to requests, the Commissioner extended the comment period to September 19, 1975, notice of which was published in the FEDERAL REGISTER of August 15, 1975 (40 FR 34407).

The Commissioner received 68 written comments regarding the proposed regulations. The comments were from individuals, trade and professional associations, pharmaceutical manufacturers, and Federal and State agencies. All of the comments may be seen in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

After reviewing the comments and the proposed regulations, the Commissioner concludes that the proposed regulations should be reorganized. He believes that the procedures for establishing a bioequivalence requirement proposed in § 320.3 are too complex to be contained in only one section of the Code of Federal Regulations. Therefore, in the final regulations he is rearranging and redesignating proposed § 320.3 as §§ 320.50 through 320.62 and placing them in new Subpart C—Bioequivalence Requirements. This action will assure that the procedures for establishing a bioequivalence requirement are easier to find, read, and understand.

To aid the reader, the following table is provided to show the relationship of the final regulations to those proposed in § 320.3.

Proposed section	*Final section*
320.3(a)	320.51(a)
320.3(b)(1)-(6)	320.52
320.3(b)(7)	320.51(a)(3)
320.3(c)	320.51(a)-(b)
320.3(c)(1)-(5)	320.54
320.3(d)	320.51(a)
320.3(e)	320.55
320.3(f)	320.57
320.3(g)	320.58(a)
320.3(h)	320.58(b)
320.3(i)	320.58(c)
320.3(j)	320.58(d)
320.3(k)	320.58(e)
320.3(l)	320.56
320.3(m)	320.59
320.3(n)	320.51(d)
320.3(o)	320.60
320.3(p)	320.61
320.3(q)	320.62

The substantive comments received and the Commissioner's conclusions based on his evaluation of these comments are discussed below.

GENERAL

1. Thirty-nine comments from consumers, labor unions, and an association of retired persons expressed the opinion that the proposed regulations, if made final, would require physicians to prescribe drugs by generic name rather than by trade name and thus reduce the cost of prescription drugs. Thirty-eight of these comments supported a requirement that physicians prescribe by generic name; one comment opposed such a requirement.

The Commissioner advises that these bioequivalence regulations are not intended to, and do not, require a physician to prescribe any drug product by its generic name. The intent of the bioequivalence regulations is to assure that all drug products that are intended to be used interchangeably and that have a known or potential bioequivalence problem are identified and adequately manufactured and tested to assure that they are bioequivalent. The FDA, in approving a drug product for marketing, assures that the drug product is safe and effective for its labeled indications for use and meets all applicable standards of identity, strength, quality, and purity. The purpose of the bioequivalence regulations is to assure that, where necessary, these standards include a bioequivalence requirement.

2. One comment stated that the proposed regulations should not be implemented since they are unnecessary and would be destructive to the present method by which drugs are discovered, prescribed by doctors, and used by patients. The comment added that bioequivalence is an inadequately defined concept that may be used to establish a reckless system of equivalence whereby unequal drug products become equal and thereby interfere with the physician's freedom to utilize his trained judgment in the choice of drugs.

The Commissioner does not agree that bioequivalence is an inadequately defined concept whereby unequal drug products become equal, or that the proposed regulations will interfere with the physician's right or ability to choose appropriate drug therapy. The Commissioner recognizes that much of the variability in patient response to drug therapy classically has been attributed to patient variability rather than to drug product variability. Advances in pharmaceutical technology have made bioequivalence a most precise and reproducible method of determining drug product variability. These bioequivalence techniques are not inadequately defined or reckless concepts. They are scientifically valid methods of comparing different drug products as well as different batches of the same drug product. The Commissioner believes that the actions he is taking to assure bioequivalence of marketed drug products will enhance the physician's ability to choose appropriate drug therapy, because the physician will be assured that the product he selects will perform with greater consistency. The Commissioner also believes that information regarding drug product absorption, metabolism, and excretion can be constructive in revising the directions for use in the labeling and thereby provide for better patient care.

3. One comment stated that the proposed regulations exceed statutory authority, contravene the intent of Congress, and should not be finalized. The comment stated that there is no statutory basis for requiring bioequivalence evidence, that such evidence of relative comparability goes beyond the intent of Congress to assure that drugs are safe and effective, and that the legislative history expressly ruled out a requirement for a showing of relative effectiveness of a drug.

The bioequivalence regulations are not an attempt to equate evidence of bioequivalence with evidence of relative therapeutic effectiveness. All drug products are required under the Federal Food, Drug, and Cosmetic Act to meet appropriate standards to assure that they have their purported identity, strength, quality, and purity. Traditionally, these standards have used physical and chemical tests to characterize a drug product. With the development of the science of biopharmaceutics and pharmacokinetics, however, it is now possible to characterize a drug product more fully by determining its biological availability. Therefore, standards for certain drug products should be amended to include bioequivalence requirements. The Commissioner believes that the bioequivalence regulations are consistent with the intent of Congress to assure that drug products that contain the same active drug ingredient or therapeutic moiety and are intended to be used interchangeable meet the same standards.

4. One comment stated that the use of notice and comment rulemaking to establish a bioequivalence requirement for particular therapeutic moieties is procedurally improper. The comment alleged that such requirements may be imposed on new drugs only through adjudicatory procedures, and the proposed regulations should be amended to provide for the imposition of a bioequivalence requirement only after opportunity

for a hearing on the issuance of a declaratory order under the new drug provisions of the Federal Food, Drug, and Cosmetic Act.

The Commissioner does not agree with this comment. He believes that adjudicatory hearings are not appropriate for agency decisionmaking regarding the establishment of a bioequivalence requirement. The establishment of a bioequivalence requirement will ordinarily involve complex scientific and medical issues of general applicability that can be resolved more appropriately in the notice and comment rulemaking procedures. The legality of the rulemaking approach to drug regulation has been upheld by the Supreme Court ("Weinberger *v.* Hynson, Wescott & Dunning", 412 U.S. 609 (1973)). The Commissioner may, however, in his discretion, also subject any proposed bioequivalence requirement for a particular drug to an informal public hearing or a formal evidentiary public hearing, where such a procedure would contribute to resolution of the issues.

5. One comment objected to the assertion in the preamble that section 704 of the act (21 U.S.C. 374) authorizes the agency to require manufacturers to submit records and reports and information regarding bioequivalence. The comment argued that section 704, by its plain terms, precludes any such construction and the proposed regulations predicated thereon should be withdrawn.

Section 704 of the act provides that establishments that process prescription drug products are subject to FDA inspection, including review of certain records to determine compliance with the act and regulations. As noted in the preamble to the proposal, section 704(a) of the act distinguishes between physical entry of an establishment for inspection of the premises, and inspection of records that are maintained by an establishment. Physical entry is not required to inspect records, which are readily removable from the establishment. In the Commissioner's opinion, the law presently permits the adoption of a requirement for submission of these records directly to FDA, rather than requiring agency representatives to visit each facility to obtain such records. The Commissioner believes that submission of records directly to FDA presents no undue hardship for an establishment and is an effective, practical, and efficient procedure for obtaining certain information consistent with FDA's inspection authority. In addition, this approach may ease the burden of compliance by permitting a firm to assemble and submit the information to FDA in a reasonable period of time, rather than responding immediately when an FDA investigator arrives at the door of the establishment.

6. Two comments stated that, in their view, it is manifest that the Commissioner intends to establish a bioequivalence requirement in lieu of the need to file an NDA under section 505(b) of the act (21 U.S.C. 355(b)). The comment stated that such a policy is unlawful and in contravention of the dictates of section 505 of the act and the intent of Congress in requiring premarket approval of new drugs.

The Commissioner advises that establishment of a bioequivalence requirement does not relieve any manufacturer of the need to file a new drug application. If a bioequivalence requirement is established for a drug product that is a "new drug" as defined in section 201(p) of the act (21 U.S.C. 321(p)), each manufacturer will be required to submit a full or abbreviated NDA or supplemental application containing evidence that the drug product complies with the bioequivalence requirement. Evidence of bioequivalence will be in addition to evidence that the drug product is safe and effective for its intended use.

7. One comment expressed concern with the assumption that drug products that are bioequivalent are therefore equally safe. The comment explained that it is clear that two formulations of the same therapeutic moiety that demonstrate in vitro bioequivalence may have dramatically differing results when used in man. The comment added that even proven evidence of bioequivalence under proposed § 320.3 is no guarantee of safety.

Evidence of bioequivalence is only one test of equivalent safety and effectiveness among different drug products containing the same active drug ingredient or therapeutic moiety. Other factors that may affect the safety and effectiveness of different drug products containing the same active drug ingredient or therapeutic moiety include similarity of or differences between inactive ingredients; compliance of the manufacturing process with current good manufacturing practice; conformity with compendial or other standards of identity, strength, quality, and purity; and adequacy of drug product labeling. These factors are regulated through mechanisms other than the bioequivalence requirements. The Commissioner believes that if two or more drug products not presenting a bioequivalence problem contain identical amounts of the same active drug ingredient or therapeutic moiety in the same dosage form, are both manufactured in compliance with current good manufacturing practice, both contain inactive ingredients generally recognized as safe and suitable for the drug product formulation, both meet compendial or other standards of identity, strength, quality, and purity and are both adequately labeled, it is reasonable to assume that these products will be of equivalent safety and effectiveness. Moreover, if one of these products has been shown in adequate and well-controlled clinical trials to be safe and effective for its intended uses, there is no justification for requiring clinical trials to establish the safety and effectiveness of the second product in the absence of reasonable grounds for believing that the two products will not be of equivalent safety and effectiveness. It is neither feasible, nor in the interest of the public health, nor a productive use of scarce resources to require costly duplication of these tests.

8. One comment, noting that the preamble to the proposed regulation states that efforts should be made to develop in vitro tests that will be valid predictors of bioequivalence, stated that this opinion should be expanded to include a definition of in vitro tests that are correlated with in vivo data.

As stated in the preamble to the proposal, the Commissioner believes that the solution to a bioequivalence problem is to develop an in vitro bioequivalence standard that has been correlated with in vivo data. If, however, an in vitro bioequivalence standard does not exist, he believes that a solution to a bioequivalence problem is, where practicable, in vitro testing using a method specified by FDA that has not been correlated with in vivo data. This requirement would be imposed only until an in vitro bioequivalence standard that has been correlated with in vivo data is available. The relevant in vitro test will be defined in the individual bioequivalence requirement when the latter is issued.

9. One comment stated that the proposed bioequivalence requirements would force many of the smaller firms to cease selling generic products because of the cost involved in meeting these requirements. The comment added that bioequivalence requirements should be limited to the few cases where slight differences in the drug products constitute a substantial hazard to the public health.

The Commissioner is of the opinion that cost considerations cannot be the prime factor in determining whether to establish a bioequivalence requirement for certain drug products. A bioequivalence requirement would only be imposed, however, when bioinequivalence may have therapeutic significance. He believes, moreover, that bioequivalence can be determined for many drug products using less costly in vitro methodology. The Commissioner anticipates that in vivo testing will generally be limited to those drug products for which (a) there is well-documented evidence of therapeutic failure or bioinequivalence in drug products used for treatment of a serious disease, (b) careful dosage titration and patient monitoring is essential for safe and effective use, and (c) an in vitro bioequivalence standard, i.e., one that has been correlated with in vivo data, is unavailable.

10. One comment inquired as to how FDA will do in vivo and/or in vitro testing to assure bioequivalence. The comment stated that perhaps the agency could make use of university scientists who have no vested interest in the products in question to test these products for bioequivalence.

The Commissioner advises that the primary responsibility for performing in vivo and in vitro bioequivalence testing of a drug product rests with its manufacturer. The FDA will continue to do studies to improve existing methodology and specifications relating to bioequivalence and to test samples of marketed

drug products to assure the bioequivalence of these products. This testing will be done both in-house and through grants and contracts to competent university scientists and other appropriate investigators.

11. Several comments objected to what they consider to be the inherent assumption in the proposal that no prescription drug products except those listed in the preamble have a bioequivalence problem. The comment stated that FDA has failed to produce any valid scientific evidence to back up this assumption of equivalence.

The Commissioner advises that the proposed regulations were not based on the inherent assumption that only the prescription drug products listed in the preamble have a bioequivalence problem. The proposed regulations under § 320.3 (b) listed factors that the Commissioner would consider in determining whether there is a bioequivalence problem that requires the establishment of a bioequivalence requirement. Using these criteria, the Commissioner made a tentative finding that the drug products listed in the preamble had a known or potential bioequivalence problem. The purpose of the list was to generate public understanding of how FDA intends to apply the factors set forth in proposed § 320.3(b) to identify drug products for which a bioequivalence requirement should be established. Although an attempt was made to identify each drug product with a known or potential bioequivalence problem, the Commissioner recognizes that the list may omit some drug products with a known or potential bioequivalence problem. Likewise, the Commissioner emphasizes that a drug product's inclusion on the list does not necessarily imply that FDA has positive evidence of bioinequivalence among the various brands of the drug product.

12. One comment questioned the statement in the preamble to proposed § 320.3 that the Commissioner believes that relatively few of the marketed drug products meeting current in vitro standards and current good manufacturing practices will be found to have medically significant bioequivalence problems. The comment noted that the lengthy list of drug products in the preamble suggests more than a few potential bioequivalence problems.

In paragraph 11, the Commissioner emphasizes that a drug product's inclusion on the list does not necessarily imply that FDA has positive evidence of bioinquivalence among the various brands of the drug product. In compiling the list, FDA took a conservative approach. Therefore, a drug product was included on the list if, in FDA's opinion, there was any suspicion that the drug product had a known or potential bioequivalence problem or was a member of a class of drug products for which there was suspicion that at least one member of the class had a known or potential bioequivalence problem. The Commissioner is of the opinion that, as evidence of bioinequivalence is closely examined, few of the drug products listed will be determined to have well-documented, medically significant bioequivalence problems. A "medically significant bioequivalence problem" is one that would result in therapeutic failure or a hazard to a patient if different brands of the same drug product or different batches of the same brand are not bioequivalent. The Commissioner believes that a determination of bioequivalence is most critical in a drug product that has a narrow therapeutic-toxicity dosage range and requires careful patient titration and monitoring for safe and effective use.

13. Two comments objected to the list of drug products included in the preamble and identified as having known or potential bioequivalence problems. The comment added that the list is arbitrary, and, contrary to a statement made in the preamble, does not provide adequate information to manufacturers to assemble data and conduct bioequivalence studies in anticipation of a bioequivalence requirement. Several comments suggested that the list be amended to include additional drug products.

In responding to the comment in paragraph 11 of this preamble, the Commissioner acknowledges that the list of drug products may omit some drug products with a known or potential bioequivalence problem. The Commissioner does not agree that the list is arbitrary. The drug products listed were selected by the Commissioner using the factors proposed in § 320.3(b). The purpose of the list was to alert persons marketing a drug product on the list that, on the basis of an in-house review of data available to FDA, the Commissioner is concerned that the product has a bioequivalence problem and he will likely propose to establish a bioequivalence requirement for the drug product. At the time the Commissioner proposes a bioequivalence requirement, he will document the data to support the requirement. These persons, therefore, can rely on this advance information if they wish to conduct bioequivalence studies in anticipation of the establishment of the requirement by rule making.

The majority of the drug products listed in the preamble and identified as having a known or potential bioequivalence problem were drug products evaluated as effective for at least one indication in the Drug Efficacy Study. The Commissioner advises that FDA will continue to require the submission of bioavailability data in a full or abbreviated NDA for any of these products and for identical, related, or similar drug products. This policy is being codified in § 320.22(c) (21 CFR 320.22(c)) of the bioavailability regulations under Subpart B—Procedures for Determining the Bioavailability of Drug Products published elsewhere in this issue of the FEDERAL REGISTER. The FDA intends to propose in the near future under the procedures set forth in Subpart C of Part 320 the establishment of a bioequivalence requirement for all of these drug products, which upon examination, are determined to have well-documented, medically significant bioequivalence problems. If a bioequivalence requirement is finally established for a drug product after completion of these procedures, the applicant will be required to submit data in the full or abbreviated NDA to demonstrate that the product meets the bioequivalence requirement.

The Commissioner also advises that FDA's current policy is that, until a bioequivalence requirement is established for a drug product, manufacturers submitting a full or abbreviated NDA for a drug product already identified by FDA as having a known or potential bioequivalence problem will be required to meet the same requirements as previous manufacturers. Thus if previous manufacturers have been required to conduct in vivo studies, new manufacturers will be required to conduct in vivo studies even though there is evidence that a bioequivalence requirement could be established on the basis of an in vitro test. This assures that opportunity for public comment will be provided before an in vitro test is substituted for an existing in vivo test to demonstrate bioequivalence, and that competing firms are treated fairly and equally by the agency. The Commissioner advises that, pursuant to the agency's policy of minimizing human studies, FDA will give priority to the establishment of bioequivalence requirements to those products for which an in vitro test is available.

DEFINITIONS

14. One comment objected to the definition of "drug product" proposed in § 320.1(b). The comment stated the definition should connote an item that is capable of being introduced into interstate commerce and should embrace the active drug ingredient, the labeling, and the final package in which the product is distributed, and not merely the product's dosage form. The comment recommended that "drug product" be defined as "a dosage form defined by the USP monograph in a suitable protective container with labeling that includes directions for use and storage."

The Commissioner does not agree that the term "drug product" should be defined, for the purposes of the bioavailability and bioequivalence regulations, to include the container and labeling. The purpose of defining the term "drug product" is to differentiate that term from the term "drug", i.e., the active drug ingredient. The Commissioner does not believe that the suggested change adds clarity to the definition. On the contrary, he believes that inclusion of the container and labeling in the definition of drug product might mislead persons into believing that a bioequivalence requirement would have to specify the type of container and labeling. The purpose of the bioequivalence regulations is to assure that pharmaceutical equivalents or pharmaceutical alternatives have equivalent bioavailability. The container and labeling have no bearing on this purpose. While a container may affect the stability of a drug product a product whose strength or purity has deteriorated over time is no longer a pharmaceutical equivalent or a pharmaceutical alternative.

15. One comment concerning the definition of the term "pharmaceutical al-

ternatives" proposed in § 320.1(d) stated that this implies that two different salts may have the same effect, but whereas the rate of deposit in situ may be different, this difference is not an effect of bioavailability.

While the comment is not clear, the Commissioner reiterates that certain pharmaceutical alternatives, as defined in proposed § 320.1(d), should be bioequivalent because their therapeutic effect is based on the same therapeutic moiety and they are labeled to be used interchangeably, e.g., theophylline and aminophylline (theophylline ethylenediamine). On the other hand, other pharmaceutical alternatives, e.g., erythromycin estolate and erythromycin stearate, are not labeled to be used interchangeably and need not be bioequivalent. The Commissioner will propose to establish a bioequivalence requirement for pharmaceutical alternatives only if the labeling indicates that they are intended to be used interchangeably. If pharmaceutical alternatives are not intended to be used interchangeably, the labeling should note differences in pharmacokinetic properties affecting metabolism and tissue distribution, toxicity, and adverse reactions.

16. Two comments recommended that the definition of the term "bioequivalent drug products" proposed in § 320.1(e) be modified to read: " 'Bioequivalent drug products' means pharmaceutical equivalents or pharmaceutical alternatives that have comparable location parameters, e.g., means, medians, etc., with respect to rate and extent of absorption to the reference material, provided that the bioavailability test shall be sufficiently sensitive to discriminate between specified differences in formulations. A drug product may be equivalent to the reference material in the extent of absorption, but not in its rate of absorption and yet may be considered to be bioequivalent because such differences in rate of absorption may be intentional or are not essential to the attainment of effective body drug concentration on chronic usage." Another comment recommended that confidence intervals should be used to interpret bioequivalence data. The comment stated that the use of confidence intervals would remove the decision on bioequivalence from the statistician, who should not make therapeutic decisions, to its rightful place with the investigating clinician. For example, in a comparative bioavailability trial of a new formulation (B) against a standard formulation (A) of a drug, analysis may indicate that the total urinary excretion of (B) is (with 95 percent confidence) 91.8 to 108.2 percent of the urinary excretion of (A). The investigator can then decide whether this 8.2-percent variation is, or is not, sufficiently small to consider the two preparations therapeutically equivalent.

The Commissioner believes that a determination that two or more pharmaceutical equivalents or pharmaceutical alternatives are bioequivalent drug products should consider not only the statistical significance of numerical values, e.g., means, medians, etc., but also inter- and intra-subject variability, product reproducibility and variability, and the medical significance of differences in bioavailability. For certain drug products, greater variance in bioavailability can be tolerated because of the intended therapeutic use or because the products do not require careful patient titration. In addition, variation in bioavailability must be allowed because the reference material used as a standard for bioequivalence testing will, in most cases, be from a batch of the product produced by the original NDA holder and this reference material, in itself, is not an absolute bioequivalence standard.

As suggested in the first comments, the Commissioner has revised the second sentence in the definition of "bioequivalent drug products" to include a statement that some pharmaceutical equivalents or pharmaceutical alternatives may be equivalent in the extent of their absorption but not in their rate of absorption and yet may be considered bioequivalent because such differences in the rate of absorption are intentional and are reflected in the labeling, are not essential to the attainment of effective body drug concentrations on chronic usage, or are medically insignificant for the particular drug product studied. The Commissioner believes that this statement serves to clarify when differences in bioavailability may be tolerated.

The Commissioner, in response to the second comment regarding the use of confidence intervals, has revised the definition of bioequivalent drug products in § 320.1(e) by deleting the word "statistically" because this word incorrectly implies that the statistical significance of numerical values is the sole basis upon which bioequivalence is determined.

ACCEPTABILITY OF IN VITRO DATA AS EVIDENCE OF BIOEQUIVALENCE

17. Two comments stated that in vivo bioequivalence testing should be required, where methodology permits, for all prescription drug products subject to the new drug provisions of the act that have not been studied in clinical trials. Another comment questioned the preamble statement that, for many drug products, in vivo bioavailability testing would involve human risk and would be a waste of human resources with little benefit to the public health. This comment said that a statement should also be made that not testing all drug products could conceivably result in greater harm and risk if ineffectively compounded drug products are allowed on the market.

The Commissioner is of the opinion that, ordinarily, in vivo bioequivalence testing in humans should be limited to those drug products determined to have a medically significant bioequivalence problem. He believes that it is neither feasible nor in the interest of public health to require in vivo testing in humans for all drug products. To conduct in vivo studies to assure the bioequivalence of all marketed drug products, an enormous number of human subjects and clinical investigators would be needed. In addition, the administration of drugs to research subjects is never without some risk or discomfort to the subject. Therefore, in vivo bioequivalence studies are justifiable only where the benefits of the studies outweigh the risks. Furthermore, the Commissioner believes that, for many drug products, the use of a currently available in vitro test comparing the product to a reference material of known bioavailability is adequate to assure the bioequivalence of different brands of the same drug products as well as batch-to-batch uniformity.

18. Several comments objected to proposed § 320.1(f)(1)(i) allowing for the use of an in vitro test, usually a dissolution rate test not correlated with in vivo data, as a method for establishing bioequivalence. These comments stated that a bioequivalence requirement can only be met by an in vivo standard or by specifically showing that the in vitro standard correlates with in vivo data. Unless an in vitro test presents a valid predictive standard for the in vivo bioavailability of a drug product, it should not be used as a standard of bioequivalence. One comment urged that only in vivo testing be used to determine the bioequivalence of drug products unless and until carefully evaluated and validated in vitro methods, unequivocally capable of correlating with bioanalytical findings, are available and published for review by competent scientists.

The Commissioner reiterates his opinion that it is neither feasible nor in the public interest to require in vivo studies in humans for the majority of drug products identified as having a bioequivalence problem. He believes that, ordinarily, in vivo bioequivalence studies should be limited to those drug products for which there is well-documented evidence of therapeutic failure or bioinequivalence in different brands of a drug product that exhibits a narrow therapeutic/toxicity ratio or has an effective concentration in the blood that is in close proximity to the toxic concentration in the blood, and safe and effective use of the drug product requires careful dosage titration and patient monitoring.

The Commissioner believes that a bioequivalence requirement for the majority of drug products should be an in vitro test in which the drug product is compared to a reference material. Preferably, the in vitro test should be an in vitro bioequivalence standard, i.e., an in vitro test that has been correlated with human in vivo data. If an in vitro bioequivalence standard does not exist, however, the Commissioner believes that a solution to a bioequivalence problem is to require an FDA-specified in vitro test not correlated with human in vivo data. Based on current technology, the Commissioner anticipates that, in most instances, the in vitro test will be a dissolution test. Section 320.53 of the final regulations provides for such an in vitro test. The Commissioner advises that a drug product will not be approved for marketing solely on the basis of dissolution rates. A dissolution test, however, may constitute a proper element in reaching the

decision to approve an NDA or supplemental application for a drug product with a bioequivalence problem.

19. One comment stated that, although dissolution rates should be standard analytical procedures, they should not be used as a means of approving a drug product for marketing.

The FDA's experience shows that poor bioavailability is associated with poor dissolution. Where the FDA has performed both blood level studies and dissolution studies on the same lots of different brands of a drug product, test results show that, if there is a significant difference in blood levels, there is also a significant difference in dissolution rates. The FDA, however, is unaware of any instance where noncontrolled release drug products with high dissolution rates were shown not to be bioavailable when tested in vivo.

In most instances, the reference material used in a bioequivalence study will be a drug product that is the subject of an approved NDA. The Commissioner is concerned that the validity of a dissolution rate test will be questioned if the reference material has a low dissolution rate or fails to achieve its full dissolution potential. In proposing a bioequivalence requirement involving an in vitro test not correlated with human in vivo data, the Commissioner will invite comments regarding the adequacy of the test to demonstrate product comparability. The FDA is studying the dissolution rates of a number of multiple source drugs to obtain basic data to support a bioequivalence requirement involving a dissolution test for these products.

20. One comment proposes deleting both the in vitro dissolution testing as an indication of in vivo bioavailability and, in most instances, in vivo studies in humans and replacing both with in vivo animal studies.

The Commissioner agrees that in vivo animal studies may be suitable for demonstrating bioequivalence. To date, however, the FDA has seen little outside data correlating in vivo animal data on the different brands of a drug product or on different batches of the same brand. The FDA is now conducting these studies on some drug products and expects to conduct studies on additional drug products in the future. Information from these studies will provide first hand information as to the extent that animal studies may be able to substitute for human studies where in vivo testing is required. Therefore, until that time, the Commissioner believes that animal studies should be limited to those instances where an in vitro test is not suitable or in vivo testing in humans is impractical or not feasible. Section 320.53 of the final regulations provides for in vivo animal studies in a bioequivalence requirement.

21. The Commissioner also concludes that it is inappropriate to include in the definition of the term "bioequivalence requirement," the types of bioequivalence requirements that may be established. Therefore, in the final regulations he has limited § 320.1(f) to a definition of the term "bioequivalence requirement." He has deleted the information in proposed § 320.1(f)(1) and (2) regarding the types of bioequivalence requirements, and has included this information in new § 320.53.

PROCEDURES FOR ESTABLISHING OR AMENDING A BIOEQUIVALENCE REQUIREMENT

22. One comment proposed deletion of the phrase "or may not be" from proposed § 320.3(a) (now § 320.51(a)(2)). The comment explained that it is a contradiction in terms to impose bioequivalence requirements on products when the Commissioner does not know them to be ordinarily lacking in bioequivalence. Furthermore, if a lack of bioequivalence cannot be established by available scientific techniques, it is doubtful at best that a meaningful bioequivalence requirement could be established. The comment added that, if a bioequivalence requirement is not in fact necessary to assure that a drug is safe and effective for use under the conditions prescribed, recommended, or suggested in its labeling, then it cannot be required under the statute.

The Commissioner agrees in part with this comment; however, he does not agree that the phrase "or may not be" should be deleted. He advises that a bioequivalence requirement will not be established for a particular drug product unless there is well-documented evidence that different brands of the same drug product present a high potential for not being bioequivalent or are not bioequivalent. The Commissioner recognizes, however, that there may be instances where there is well-documented evidence of a bioequivalence problem with several drug products in a class of drug products, e.g., the thiazides, but this evidence does not include data for all of the drug products in the class. The Commissioner is of the opinion that, on the basis of this evidence, protection of the public health requires that he establish a bioequivalence requirement for all of the drug products in the class, and not only for the particular drug products in the class for which there is well-documented evidence of a bioequivalence problem. Proposed § 320.3(b)(7) stated that one of the factors to be considered in determining whether a bioequivalence requirement should be established is evidence that pharmaceutical alternatives or pharmaceutical equivalents are members of a class of drug products that have close structural similarity and physicochemical or pharmacokinetic properties and evidence that other drug products in this same class are not bioequivalent drug products; this has now been merged with proposed § 320.3(a) in new § 320.51(a). The Commissioner advises that the intent of the phrase "or may not be" in proposed § 320.3(a) is to reflect the factor in proposed § 320.3(b). Section 320.51(a) of the final regulations states that a bioequivalence requirement may be established if the Commissioner determines that drug products may not be bioequivalent drug products based on the criteria set forth in § 320.52 or because they are members of a class of drug products and have close structural similarity and similar physicochemical or pharmacokinetic properties to other drug products in the same class that the Commissioner finds proposed § 320.3(a) is to reflect the factor

23. One comment stated that the petition procedures for establishing a bioequivalence requirement in proposed § 320.3(c) would shift to manufacturers FDA's reponsibility for monitoring the safety and effectiveness of other manufacturers' "me-too" products. The comment added that FDA should not establish procedures that would permit the marketing of untested products and that would rely upon manufacturers' testing of competitors' products to detect effectiveness problems.

The Commissioner believes that this comment incorrectly assumes that once the regulations are finalized FDA will take a passive role and wait for manufacturers to submit data on their competitors' products before taking action. This is not the case. The FDA will continue to conduct studies to identify bioequivalence problems with multiple source drug products. The FDA will itself propose to establish a bioequivalence requirement for a drug product if the data needed to establish this requirement are known to the agency. While FDA does not expect manufacturers to submit information on the deficiencies of competing products, it is naive to believe that many manufacturers do not routinely test their competitors' products. In the past manufacturers have submitted data to FDA showing that there are bioequivalence problems with their competitors' products and requested regulatory action. The petition procedure does not transfer to anyone FDA's responsibility to assure the safety, effectiveness, and quality of drug products. The purpose of the procedure is to provide an orderly process for any person, including manufacturers who desire to do so, to submit evidence of a bioequivalence problem to FDA. This procedure will assure, however, that such evidence is public and scientifically valid and that the petition is not simply an attempt to make it harder for competitors to market products.

24. One comment proposed that the following new sentence be inserted between the first and second sentence of proposed § 320.3(c): "A proposal to establish a bioequivalence requirement initiated by the Commissioner of Food and Drugs shall contain the same information required by this section to be included in citizen petitions to establish such a requirement." The comment argued that the Commissioner should subject himself to no less substantial requirements than those imposed on private parties.

The Commissioner agrees that if he proposes to establish a bioequivalence requirement the proposal must contain well-documented evidence to support the proposal. If the Commissioner proposes to establish a bioequivalence requirement, the supporting data will be placed on public display in the office of the Hearing Clerk, Food and Drug Administration, and referred to in the proposal published in the FEDERAL REGISTER for public comment. The Commissioner is

amending § 320.51(c) of the final regulations to clarify this issue.

25. One comment stated that the person petitioning for a bioequivalence requirement having justified the bioequivalence requirement under proposed § 320.3(c)(1) should not be required to provide a proposed in vitro or in vivo test. The comment explained that if a bioequivalence problem is shown to exist, the drug product should be added to the list of drug products needing in vivo or in vitro testing and the same procedures followed as with drug products already listed.

The Commissioner believes that, in the majority of cases, if there is well-documented evidence of a bioequivalence problem, the petitioner will be able to propose an in vitro or in vivo test for determining bioequivalence. The intent of the regulations is to require a petitioner to include in his petition any in vitro or in vivo test he proposes to be used in a bioequivalence requirement. The Commissioner advises, however, that he will not deny a petition solely because it does not contain a proposed in vitro or in vivo test. The Commissioner is modifying the final regulations in § 320.54(b) to state that the petitioner is requested to, but is not required to, include in the petition a description of any in vitro or in vivo test he proposes to be used in a bioequivalence requirement.

26. One comment stated that proposed § 320.3(n) would allow FDA to amend a bioequivalence requirement without revealing the reasons for this requirement. The comment explained that this situation can arise if a revision of a bioequivalence requirement is based on confidential information obtained from one drug company. The comment added that, if a new standard based on confidential information is imposed, it is not possible to know whether an arbitrary standard is being required or whether the standard is justified but based on confidential information. The comment recommended that FDA state when the standard is based on confidential data.

Section 320.51(d) of the final regulations provides that the Commissioner, on his own initiative or in response to a petition by an interested person, may amend a bioequivalence requirement. An amendment will be made with the same criteria and procedural steps that are to be used in establishing a bioequivalence requirement initially. Data submitted in a petition or otherwise available to FDA to support the amendment will be made part of the administrative record. If the amendment proposes a new or revised method based on data in an approved NDA or data voluntarily submitted to FDA and shown to be exempt from public disclosure, the administrative record will include a summary of the data and indicate that the new or revised method is based on data in an approved NDA or on confidential data voluntarily submitted to FDA.

EVIDENCE TO ESTABLISH A BIOEQUIVALENCE REQUIREMENT

27. One comment stated that the proposal is unclear whether the factors listed in proposed § 320.3(b) (now § 320.52) are those to be considered in deciding whether to initiate a proceeding to establish a bioequivalence requirement as well as being the factors that will control the outcome of such a proceeding. The comment proposed that the phrase "which, if demonstrated to be reliable and persuasive, establishes" be inserted prior to the phrase "that such drug products" in proposed § 320.3(b) (1), (2), and (3), and prior to the word "that" appearing in the first lines of proposed § 320.3(b) (4), (5), (6), and (7).

The Commissioner agrees in principle with this comment and advises that the factors listed in proposed § 320.3(b) are to be considered both in deciding whether to propose establishing a bioequivalence requirement and in determining whether a proposed requirement be finalized. In response to the comment, the Commissioner is revising the final regulations in § 320.52 to state that the factors listed, when supported by well-documented evidence, will be considered by the Commissioner to identify specific pharmaceutical equivalents and pharmaceutical alternatives that are not or may not be bioequivalent drug products and to determine whether to propose or promulgate a regulation to establish a bioequivalence requirement for these products.

28. One comment stated that the Commissioner should specify what factors, other than those proposed in § 320.3(b), are referred to in the statement that the "following factors, among others," will be taken into account in a bioequivalence proceeding. The comment stated that it is necessary that all the factors to be considered be spelled out in advance, in order that affected parties may meet the alleged theoretical and factual justification for a proposal that a bioequivalence requirement is necessary for a drug product.

The Commissioner disagrees with this comment. The FDA has attempted to identify prospectively all factors known at this time that would require the establishment of a bioequivalence requirement. These factors reflect the current state of the art and available technology. As with all new regulations relating to an evolving science, the Commissioner reserves the right to consider other factors that may indicate the need to establish a bioequivalence requirement. The Commissioner advises, however, that in establishing a bioequivalence requirement FDA will identify all of the factors considered in determining that a bioequivalence problem exists. Interested persons will have ample opportunity to comment on the scientific merits of these factors before issuance of a final regulation establishing a bioequivalence requirement.

29. One comment stated that proposed § 320.3(b)(1) stipulates that evidence from controlled observations or well-controlled studies in patients that pharmaceutical equivalents or pharmaceutical alternatives intended to be used interchangeably for the same therapeutic effect do not give comparable therapeutic effects will be considered in determining whether to establish a bioequivalence requirement. The comment explained that it would also appear that a lack of well-controlled studies, coupled with a reasonable amount of anecdotal evidence indicating therapeutic failure, should necessitate a direct demonstration of bioavailability. Otherwise, the burden lies not with the new producer of a drug product to demonstrate that his product has comparable bioavailability with those products preceding it on the market, but rather with others to demonstrate that in fact a significant therapeutic risk may exist due to the bioavailability of the product of the new producer.

The Commissioner concludes that a bioequivalence requirement should be established only if there is well-documented evidence that an actual or potential bioequivalence problem exists. Anecdotal evidence is not well-documented evidence. The Commissioner will not establish a bioequivalence requirement on anecdotal evidence alone. In paragraph 7, the Commissioner states his opinion that there are sound reasons for assuming the bioequivalence of pharmaceutical equivalents or pharmaceutical alternatives (based both on data showing the absence of a problem and on the reasonable allocation of scarce technical and human resources), and this assumption is not to be set aside on mere anecdotal contentions.

The Commissioner does not agree that failure to establish a bioequivalence requirement on the basis of anecdotal evidence alters the burden on competing manufacturers, on physicians, consumers, or FDA itself to show that a bioequivalence problem exists with the product of a new producer. The procedures in the final regulations are intended to establish criteria for identifying significant bioequivalence problems that justify additional in vitro and/or in vivo testing to assure that different brands of the same drug product meet the same standards. These procedures provide a means for any person to submit well-documented evidence to support the establishment of a bioequivalence requirement.

30. One comment regarding proposed § 320.3(b)(3) (now § 320.52(c)) stated that an active drug ingredient, not a drug product, has a "therapeutic ratio." The comment added that the inherent pharmacology of the active drug ingredient would determine the therapeutic ratio regardless of the method or rate of delivery to the blood.

The Commissioner does not agree that the therapeutic ratio is a function of the

active drug ingredient and not of the drug product. The therapeutic ratio of an active drug ingredient is not independent from its dosage form. For example, the route of administration affects drug absorption and metabolism and thereby affects the therapeutic ratio.

31. One comment stated that proposed § 320.3(b)(3) does not include the parameters, e.g., the median effective dose (ED_{50}), to be used in determining the therapeutic ratio and, accordingly, the "2-fold difference" guideline should be deleted since it is inherently vague. Another comment stated that the "2-fold difference" guideline seems somewhat arbitrary. This comment added that such a decision would more properly be made for each individual compound, based upon its pharmacology, the nature and severity of the toxic responses, and its pharmacokinetics, especially the rate of elimination and the volumes of distribution. Furthermore, it would be more appropriate to establish a bioequivalence requirement based on therapeutic ratio standards for a group of drug products using those factors that control the biological response to a given dose of a drug product.

The intent of § 320.52(c) is to establish criteria for identifying drug products that require careful dosage titration and patient monitoring for safe and effective use. A bioequivalence problem in these drug products could present a serious health hazard. One method of making such a determination is based on the therapeutic ratio of the drug products. In classical pharmacology the term "therapeutic ratio" is defined as the ratio of the median lethal dose (LD_{50}) to the median effective dose (ED_{50}). See Goodman and Gilman, "The Pharmacological Basis of Therapeutics," 5th Ed., p. 27, Macmillan Publishing Co., Inc., New York, 1975. A copy of this reference has been placed on file in the office of the Hearing Clerk, Food and Drug Administration. The therapeutic ratio as defined in classical pharmacology is based partly on the median lethal dose and thus such a determination is usually done in animal studies. For this reason, the therapeutic ratio is rarely used in clinical pharmacology and biopharmaceutics to identify drug products that require careful dosage titration and patient monitoring. This determination is usually made by biopharmaceutical scientists by comparing the minimum effective concentration and minimum toxic concentration in the blood achieved in a multiple dose steady state study. The Commissioner concludes that either the therapeutic ratio of a drug product or a comparison of the minimum effective concentration and the minimum toxic concentration can be used to identify drug products that require careful dosage titration and patient monitoring.

The Commissioner does not agree that the 2-fold difference guideline is arbitrary. He believes that this guideline is generally accepted by the medical community as being adequate to identify drug products that require dosage titration and careful patient monitoring. He emphasizes that this is a guideline that must be applied to an individual drug product on the basis of the product's pharmacology and usage.

The Commissioner is revising the final regulations to specify the parameters to be used in determining the therapeutic ratio and to provide for the comparison of minimum effective concentration and minimum toxic concentration to identify drug products requiring dosage titration and careful patient monitoring.

32. One comment stated that proposed § 320.3(b)(4) (now § 320.52(d)), as written, would not require the establishment of a bioequivalence requirement if a bioequivalence problem could result in a less than serious adverse effect in a serious condition or a serious adverse effect in a less than serious condition. Another comment stated that proposed § 320.3(b)(4) seems to qualify proposed § 320.3(b)(2). This comment explained that it is possible that FDA would allow bioinequivalent products on the market if the agency judged this inequivalence as not being a serious threat in the treatment or prevention of a serious disease condition. The comment added that proposed § 320.3(b)(4) could negate all the other factors to be considered in determining the need for a bioequivalence requirement, since it would be at the discretion of the Commissioner to decide whether this inequivalence would be clinically meaningful.

The Commissioner advises that the intent of § 320.52(d) is to permit the establishment of a bioequivalence requirement where competent medical determination indicates that a lack of bioequivalence would have serious adverse effects in the treatment or prevention of a serious disease or condition even though the available pharmacokinetic or physicochemical data are less than conclusive. Section 320.52(d) does not exclude the establishment of a bioequivalence requirement when a lack of bioequivalence could have a less than serious adverse effect. If evidence demonstrates a known or potential bioequivalence problem, the Commissioner will propose to establish a bioequivalence requirement regardless of whether a lack of bioequivalence could result in a serious adverse effect. The Commissioner, however, does not intend to establish a bioequivalence requirement solely on a medical determination that a lack of bioequivalence could result in a serious adverse effect in the treatment or prevention of a serious disease or condition. A medical determination that a bioequivalence problem could have a serious adverse effect is, of course, of great concern to FDA and would be given great weight in determining whether to establish a bioequivalence requirement if there is other evidence that there is a potential bioequivalence problem even though this evidence is less than conclusive. All of the factors listed in § 320.52 will be considered together in determining whether to establish a bioequivalence requirement. Finally, the Commissioner reiterates that he does not intend to allow drug products with bioequivalence problems to remain on the market. The Commissioner believes, however, that priority should be given to establishing bioequivalence requirements for those drug products where bioequivalence is critical for their safe and effective use in the treatment or prevention of a serious disease or condition.

33. One comment concerning proposed § 320.3(b)(5)(i) (now § 320.52(e)(1)) stated that, although low solubility of a compound has an important effect on its bioavailability from a product, the statement that the dose far exceeds the solubility in the volume of fluids present in the stomach (taken as 100 milliliters) appears to be somewhat vague. The comment added that one cannot determine what fluid is intended or what provisions will be made for doses intended in pediatric patients. Another problem would be those drugs that are utilized in a large range of strengths. By this criterion, fixed volume would affect the testing of increased doses of the same product differently, or a single strength product for which various dosage regimens are suggested for different indications.

The Commissioner agrees that proposed § 320.3(b)(5)(i) is vague and should be revised. The Commissioner advises that the fluid intended is the gastric fluid normally in the stomach. The volume of gastric fluid normally in the stomach is taken to be 100 milliliters for adults and prorated for infants and children. The Commissioner also advises that if a drug product is marketed in more than one dosage strength in the same dosage form and if the volume of gastric fluid required to dissolve any of the dosage strengths far exceeds the volume of gastric fluids normaly in the stomach, he will consider this factor as applicable to all dosage strengths since multiple amounts of this dosage strength may be used.

Section 320.52(e)(1) of the final regulations reads: "The active drug ingredient has a low solubility in water, e.g., less than 5 milligrams per 1 milliliter, or, if dissolution in the stomach is critical to absorption, the volume of gastric fluids required to dissolve the recommended dose far exceeds the normal volume of gastric fluids in the stomach (taken to be 100 milliliters for adults and prorated for infants and children)."

34. Four comments objected to proposed § 320.3(b)(5)(ii) (now § 320.52(e)(2)) that lists a slow dissolution rate, i.e., less than 50 percent in 30 minutes, as one of the factors used to determine whether a bioequivalence requirement should be established. One comment stated that the condition of this determination, such as pH and apparatus, should be specified. The comment added that this is an unnecessarily rigid requirement, and more flexibility is needed. The other comments stated that the standard for slow dissolution is not meaningful because it fails to take into account the nature of the drug entity and its intended function in the body. Another comment stated that the fact that a drug product has a dissolution

rate of less than 50 percent in 30 minutes is not sufficient reason to believe that this product has a bioequivalence problem.

The Commissioner agrees that for some drug products a dissolution rate of less than 50 percent in 30 minutes does not indicate a bioequivalence problem. He believes, however, that such a slow dissolution rate should be one of the factors, but not the only factor, considered in determining whether to establish a bioequivalence requirement. The FDA's experience is that, generally, drug products shown not to be bioequivalent when tested in vivo have a dissolution rate of less than 50 percent in 30 minutes. The Commissioner believes that this guideline can be used as an effective screen to identify drug products with a potential bioequivalence problem that deserve further study. The Commissioner advises that the decision to establish a bioequivalence requirement on the basis of the dissolution rate would consider the dissolution profile of a drug product that is the subject of a full NDA. The Commissioner also agrees that the conditions for determining dissolution rate, such as pH and apparatus, should be specified. The Commissioner is revising § 320.52(e)(2) of the final regulations to read: "The dissolution rate of one or more such products is slow, e.g., less than 50 percent in 30 minutes when tested using either a general method specified in an official compendium or a paddle method at 50 revolutions per minute in 900 milliliters of distilled or deionized water at 37° C, or differs significantly from that of an appropriate reference material such as an identical drug product that is the subject of an approved full new drug application."

35. One comment suggested that proposed § 320.3(b)(5)(iv) (now § 320.52(e)(4)) be amended to read "Certain polymorphic forms, conforms, solvates, complex, crystal modifications, etc., of the active ingredient are poorly dissolved." Another comment stated that it is improper to discuss the absorption of a polymorph according to the presently held view of gastrointestinal absorption where absorption is from the solution state. This comment stated that it would be better to note that polymorphic forms of the same compound may have different dissolution characteristics and thus affect the bioavailability of products containing different polymorphs.

The Commissioner agrees that proposed § 320.3(b)(5)(iv) should be amended to include other physical structural characteristics that may affect bioavailability. Therefore, he is revising § 320.52(e)(4) of the final regulations to read: "Certain physical structural characteristics of the active drug ingredient, e.g., polymorphic forms, conforms, solvates, complexes, and crystal modifications, dissolve poorly and this poor dissolution may affect absorption."

36. One comment stated that, although the physicochemical factors set forth in proposed § 320.3(b)(5)(i), (ii), and (v) (now § 320.52(e)(1), (2), and (5)) are appropriate for consideration in determining whether a bioequivalence requirement should be established, the examples should be deleted because they offer a potential of being misleading since they are at best mere benchmarks.

The Commissioner believes that, although the specific guidelines in proposed § 320.3(b)(5)(i), (ii), and (v) may not apply to all drug products, they are applicable to most drug products and are accepted by biopharmaceutical scientists. To clarify the intent of the inclusion of these guidelines in these sections, however, he has revised the "i.e." notation before each of these guidelines to "e.g."

37. One comment regarding proposed § 320.3(b)(5)(vi) (now § 320.52(e)(6)) stated that it is well known that many excipients used in the manufacture of drug products can have a profound effect on the disintegration, deaggregation, and dissolution of drug products, and thus potentially affect their bioavailability. These excipients are present in nearly every product on the market and the amount used and the mode of application, as well as the ratio of total excipients to active drug ingredient, can have a significant effect on the products.

The Commissioner believes that proposed § 320.3(b)(5)(vi) appropriately reflects the intent of this comment, i.e., excipients used in the manufacture of a prescription drug product may affect its bioavailability, and, therefore, the use of inactive ingredients should be considered in determining whether a bioequivalence requirement should be established. There is no change in § 320.52(e)(6) of the final regulations.

38. One comment regarding proposed § 320.3(b)(6)(ii) (now § 320.52(f)(2)) stated that, although compounds which show poor absorption would be prime candidates for a close scrutiny with respect to bioequivalence, it appears that bioequivalence for the most part involves relative availability using some standard dose such as a marketed product or an oral solution or suspension, rather than the absolute availability utilizing the area under the plasma curve or urinary excretion profile with an intravenous dose. Without such intravenous data, however, the percent absorbed from an oral solution could not be determined.

The Commissioner agrees with this comment. He is revising § 320.52(f)(2) of the final regulations to read: "The degree of absorption of the active drug ingredient, therapeutic moiety, or its precursor is poor, e.g., less than 50 percent, ordinarily in comparison to an intravenous dose, even when it is administered in pure form, e.g., in solution."

39. One comment regarding proposed § 320.3(b)(6)(iii) (now § 320.52(f)(3)) stated that the existence of rapid metabolism through a high hepatic clearance, or intestinal metabolism, would be viewed therapeutically as poor oral absorption when measured as active drug reaching the general circulation. The existence of a high first-pass effect would not have an effect on the relative bioavailability of various oral doses unless the metabolic step was easily saturated so that nonlinear kinetics would be in effect. This latter situation would mean that the extent of absorption was in fact a function of the rate of absorption. Dose dependent bioavailability would result from rapidly releasing dosage forms or solutions with a reduction in the extent of availability with increasing dosage.

The Commissioner believes that the comment misinterprets the clinical significance of the factor set forth in proposed § 320.3(b)(6)(iii). If the active drug ingredient or therapeutic moiety of two drug products undergoes first-pass metabolism either in the gastrointestinal tract or in the liver, the ingredient or moiety of each of the products may be available to the same extent in the systemic circulation at steady state conditions but may differ significantly in their peak concentrations. This difference in concentrations could alter their therapeutic or toxic effects. Drug products that undergo a rapid first-pass metabolism are of greater clinical concern because large differences in peak concentrations will manifest themselves as a function of rates of metabolism and absorption. Therefore, great emphasis may need to be placed on the rate of absorption of a rapidly metabolized active drug ingredient or therapeutic moiety particularly if blood concentrations are critical for the safe and effective use of the drug product.

The comment also refers to dose dependent kinetics where the rate of absorption affects the extent of absorption and, therefore, bioavailability and bioequivalence. The Commissioner agrees that dose dependent kinetics is a factor that should be considered in determining whether to establish a bioequivalence requirement. Therefore, he is adding a new § 320.52(f)(6) that reads: "The drug product is subject to dose dependent kinetics in or near the therapeutic range and the rate and extent of absorption are important to bioequivalence."

40. One comment relating to proposed § 320.3(b)(7) (now § 320.51(a)(3)) stated that it is inappropriate to define a potential for a bioequivalence problem on the basis that a drug product is a member of a closely related class in which a bioequivalence problem has been identified. The comment explained that within a class of compounds there are both very soluble and very insoluble substances and their potential bioequivalence problems relate to each compound's inherent physicochemical properties and not to its relationship to other similar compounds.

The Commissioner advises that if a bioequivalence requirement is established for a class of drug products, the requirement will apply only to the drug products in the class that have close structural similarity and physicochemical or pharmacokinetic properties similar to the drug product for which there is well-documented evidence of a bioequivalence problem. This concept is included in § 320.51(a)(3) of the final regulations.

REQUIREMENTS FOR BATCH TESTING AND CERTIFICATION BY FDA

41. Three comments objected to § 320.3(e) (now § 320.55) regarding individual batch testing and certification by FDA of drug products for which a bioequivalence requirement is established. The comments stated that the agency does not have the authority to require such testing and certification under the act.

The Commissioner concludes that section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) authorizes FDA to require batch testing and certification of drug products where no more practicable means exists to assure that they are safe and effective for their intended use. Section 505 of the act permits a new drug to be marketed only after an NDA provides for safety and effectiveness, under approved labeling, and with approved methods of manufacture and quality control adequate to assure batch-to-batch consistency in making the product so that the product being marketed is identical to that tested for safety and effectiveness and approved by FDA. The Commissioner's opinion is that batch testing and certification may be required in an NDA as part of the methods to assure the drug product's identity, strength, quality, and purity. Ordinarily batch testing and certification for any manufacturer will not be required after four consecutive batches have been certified. The ability of the firm to make a satisfactory product consistently in four batches will generally assure FDA that the methods of manufacture and quality control are adequate.

REQUIREMENTS FOR MARKETING A DRUG PRODUCT SUBJECT TO A BIOEQUIVALENCE REQUIREMENT

42. One comment objected to proposed § 320.3(f) (now § 320.57). The comment stated that a holder of an approved NDA should not have to conduct in vivo bioavailability tests if his product had been shown to be safe and effective in adequate and well-controlled clinical trials.

The Commissioner concludes that, if a bioequivalence requirement is established, each person marketing a drug product that is subject to the requirement must conduct studies to assure that his product meets the requirement and is equivalent to the reference material. In many cases, the drug product that is the subject of an approved NDA has been reformulated or there have been changes in the manufacturing procedures since the approval of the initial application. The reformulated product has not been studied in clinical trials. The FDA's experience is that bioequivalence problems involve products manufactured by holders of approved NDA's as well as those manufactured by persons who do not hold an approved NDA. In addition, the Commissioner believes that clinical trials are not as sensitive, accurate, or reproducible as other bioequivalence methods and should be used to determine bioequivalence only if these other methods are not available.

43. Two comments stated that proposed § 320.3(g) (now § 320.58(a)) should be withdrawn since it would impose a requirement set forth in proposed § 310.7 (21 CFR 310.7) on drug products subject to an NDA approved before October 10, 1962. The comments added that § 310.7 cannot be finalized because of the order of the United States District Court for the District of Columbia in "Hoffmann-LaRoche, Inc., v. Weinberger" (Civil Action No. 75-0270) filed July 29, 1975.

The Court's order in "Hoffmann-LaRoche, Inc. v. Weinberger" was primarily addressed to proposed § 310.7(a), which would have allowed certain drug products to be marketed without prior submission or approval of a full or abbreviated NDA. Proposed § 310.7(c) would have required that, for any drug product subject to a Drug Efficacy Study Implementation (DESI) notice being marketed for the first time after a bioequivalence requirement was established, an NDA be approved before marketing. Proposed § 310.7(c) would have permitted any drug product subject to a DESI notice being marketed at the time a bioequivalence requirement was established to remain on the market pending review and approval or disapproval of a full or abbreviated NDA or supplemental application. This provision was intended solely as a transitional procedure to bring everyone into compliance with a bioequivalence requirement promptly and effectively. The only effect that the Court's order had on proposed § 310.7(c) was to preclude application of the transition procedures to marketed drug products that were not the subject of an approved full or abbreviated NDA at the time a bioequivalence requirement was established. The FDA is taking regulatory action against all drug products known to the agency that were identified in the preamble to the proposed bioequivalence regulations as having a known or potential bioequivalence problem and that are not the subject of an approved full or abbreviated NDA. Thus the transitional procedures in § 310.7(c) that were affected by the Court's order are no longer necessary for those drug products already identified by FDA as having a known or potential bioequivalence problem. In the future, when a bioequivalence requirement is established for a drug product that is subject to a DESI notice and that has not already been identified by FDA as having a known or potential bioequivalence problem, FDA will immediately act to remove from the market all of these products that are not the subject of an approved full or abbreviated NDA. The FDA no longer intends to follow the transitional procedures provided for in proposed § 310.7(c) and no other transitional procedures will be necessary for marketed, unapproved drug products. As discussed in paragraph 46 below, the Commissioner believes that the Court's order, as amended, permits him to establish transitional procedures for marketed drug products that are the subject of an approved full or abbreviated NDA when a bioequivalence requirement is established for these products. Therefore, he is including such transitional procedures in the final regulations.

Section 320.58(a) of the final regulations provides that if a bioequivalence requirement is established for a drug product subject to an NDA that became effective before October 10, 1962, or for any identical, similar, or related drug product covered by such an NDA under § 310.6 (21 CFR 310.6), marketing of the product may lawfully be continued as follows:

a. Any manufacturer who holds an approved full or abbreviated NDA for the drug product on the effective date of the bioequivalence requirement must submit and obtain approval by FDA of a supplemental application that provides evidence that the drug product meets the bioequivalence requirement. If a supplemental application is submitted within the time frame specified in the regulation establishing the bioequivalence requirement, the manufacturer may continue to market the drug product unless and until the supplemental application is disapproved and approval of the NDA is withdrawn.

b. Any manufacturer who does not hold an approved full or abbreviated NDA for the drug product on the effective date of the bioequivalence requirement shall, before introducing the drug product into interstate commerce, submit and obtain approval by FDA of a full or abbreviated NDA, as applicable, that provides evidence that the drug product meets the bioequivalence requirement.

The requirements for a drug product subject to an NDA that became effective before October 10, 1962, or for any identical, similar, or related drug product covered by such an NDA under § 310.6, and further subject to a bioequivalence requirement parallel the requirements proposed in § 320.3(h) (now § 320.58(b)) for a drug product subject to an NDA that was approved on or after October 10, 1962.

44. Two comments objected to proposed § 320.3(h)(2) (now § 320.58(b)(2)) that would allow the submission of an abbreviated NDA for a new drug product first approved after 1962. The comments stated that full NDA's are applicable to post-1962 new drugs, whether or not a bioequivalence requirement has been established. One of the comments recommended that proposed § 320.3(h)(2) be revised to read: "The manufacturer has submitted and obtained approval from FDA of a new drug application containing evidence that the drug product meets bioequivalence requirements and otherwise meets the requirements of Section 314.1(a)-(e) of this chapter."

The Commissioner advises that proposed § 320.3(h)(2) was not intended to permit the submission of an abbreviated NDA for a new drug product that is identical, similar, or related to a new drug product subject to an NDA that was approved on or after October 10, 1962, i.e., after the effective date of the Kefauver-

Harris Amendments to the act. The FDA has not yet permitted the submission of an abbreviated NDA for these post-1962 drug products. Reference to the submission of an abbreviated NDA was included in proposed § 320.3(h)(2) in anticipation that the submission of an abbreviated NDA for these post-1962 drug products may be allowed in the future. To eliminate possible confusion at this time, however, the Commissioner is revising § 320.58(b)(2) of the final regulations to read: "Any manufacturer who does not hold an approved full new drug application for the drug product on the effective date of the bioequivalence requirement shall, before introducing the drug product into interstate commerce, submit and obtain approval by the Food and Drug Administration of a full new drug application that provides evidence that the drug product meets the bioequivalence requirement."

45. One comment stated that proposed § 320.3(i) (now § 320.58(c)) should be withdrawn. The comment explained that, if a drug product is not subject to the new drug provisions of the act, it is an "old drug", and the FDA does not have the legal authority to require submission of bioequivalence data or submission of reports under § 310.300(b)(1) and (2). The comment suggested revision of proposed § 320.3(i) to provide for the voluntary submission of these data and reports with respect to old drugs.

The FDA is reviewing the entire matter of the scope of the new drug provisions of the act and the voluntary or mandatory submission of special reports for all prescription drug products is part of this review. The Commissioner therefore is revising § 320.58(c) of the final regulations to delete the requirement regarding the submission of reports under § 310.300(b)(1) and (2).

The Commissioner concludes, however, that, if a bioequivalence requirement is established for a prescription drug product that is not subject to the new drug provisions of the act, each manufacturer must record and maintain evidence that the product meets the bioequivalence requirement. Such a drug product that does not meet the bioequivalence requirement would be regarded as misbranded under section 502 of the act. For the reasons set forth in paragraph 5, the Commissioner believes that the law presently permits the adoption of a requirement for the submission of evidence that a drug product meets a bioequivalence requirement directly to FDA. Therefore, § 320.58(c)(1) of the final regulations requires a manufacturer of a drug product not subject to the new drug provisions of the act to record and maintain evidence that the product meets the bioequivalence requirement and, upon written request or notice in the FEDERAL REGISTER, to submit this evidence promptly to FDA.

46. Two comments stated that proposed § 320.3(k) (now § 320.58(e)) would permit new drugs to be marketed without prior approval if the Commissioner, in his discretion, so allows. The comment noted that such actions are prohibited by the decision of the Court in "Hoffmann-LaRoche, Inc., v. Weinberger."

The Commissioner advises that the Court's order of July 29, 1975 in "Hoffmann-LaRoche, Inc., v. Weinberger" was amended on November 3, 1975 to add the following separate final paragraph:

ORDERED that nothing in the foregoing provision of this ORDER shall prevent defendants, upon making and publishing in the FEDERAL REGISTER a determination that prescription new drugs in the following categories are medically necessary, from allowing such drugs to continue to be marketed pending completion of scientific studies required for an evaluation of their safety and effectiveness: (a) Drugs covered by approved new drug applications with respect to which new information causes defendants to initiate proceedings to withdraw approvals of applications pursuant to provisions of 21 U.S.C. 355(e); and (b) drugs not previously declared as new drugs and not covered by effective new drug applications, which, upon the basis of new information, the defendants have classified as new drugs.

The amendment to the Court's order was published in the FEDERAL REGISTER of March 2, 1976 (41 FR 9001).

The Commissioner believes that the amendment to the Court's order permits him to stay disapproval of an NDA or supplemental application pending completion of bioequivalence studies.

The Commissioner is revising § 320.58(e) of the final regulations to clarify the conditions under which he may stay disapproval. Section 320.58(e) sets forth that the Commissioner, in his discretion, may stay disapproval for a particular drug product if he finds that all of the following conditions are met:

a. The drug product was being lawfully marketed on the effective date of the bioequivalence requirement, e.g., if a new drug, it was already the subject to an approved full or abbreviated NDA (see paragraph 43).

b. The drug product is medically necessary, e.g., it is used in the treatment of a serious disease or condition for which no alternative therapy is available.

c. There is not an adequate supply of identical or similar drug products subject to an approved full or abbreviated NDA containing bioequivalence data to fulfill medical needs.

d. The manufacturer submits a full or abbreviated NDA or supplemental application, as applicable, containing an acceptable protocol for the conduct of the bioequivalence studies and completes the necessary studies within the time frame set forth in the bioequivalence requirement.

CONFIDENTIALITY OF DATA TO ESTABLISH A BIOEQUIVALENCE REQUIREMENT

47. One comment recommended that proposed § 320.3(m) (now § 320.59) should be revised to make it clear that FDA will not disclose bioequivalence data that are trade secrets.

Section 320.59 is intended to state that a bioequivalence requirement can be established by FDA on the basis of data and information voluntarily submitted to the agency even if these data and information are not publicly disclosable. This section does not govern the disclosability of the actual data and information; the availability of data and information is governed by Part 4 (21 CFR Part 4). The Commissioner stated in the proposal's preamble that FDA intends to maintain the confidentiality of data and information voluntarily submitted to the agency that are trade secrets under § 4.61 (21 CFR 4.61).

48. Two comments regarding proposed § 320.3(m) (now § 320.59) noted that the pharmaceutical industry invests millions of dollars to develop data that may ultimately lead to an in vitro method or animal model that successfully predicts the bioavailability of a drug product. These comments stated that a novel testing apparatus or a better screening procedure offers a competitive advantage that, if disclosed to the public by FDA, would be in violation of 18 U.S.C. 1905 or 21 U.S.C. 331(j).

The Commissioner does not agree with these comments. The Commissioner believes that, if a bioequivalence requirement is established, analytical methods are necessary for regulatory purposes to permit FDA to assure that all marketed drug products meet this requirement. For many years FDA has routinely made available for public disclosure, and has included in its widely distributed manuals, analytical methods that are contained in petitions and NDA's, and which are needed for regulatory assays of drug products. The U.S.P. publishes official analytical methods. Other methods are frequently published in the scientific literature. Accordingly, methods of this type are not customarily regarded as confidential information. The Commissioner believes that an analytical method to determine if a product meets a bioequivalence requirement is not a quality control procedure per se and exempt from public disclosure under § 314.14(g)(1) (21 CFR 314.14(g)(1)), but, rather, is necessary for regulatory purposes to determine if a drug product is safe and effective and may lawfully be marketed. The Commissioner believes that the failure to make such an analytical method public would deter regulatory activity. Accordingly, the Commissioner concludes that all such methods will be made public except where they serve no regulatory function whatever. The Commissioner is including in § 320.59(c) of the final regulations a statement that a bioequivalence requirement may specify an analytical method contained in a petition or an approved new drug application, or that is based on data and information voluntarily submitted to FDA, unless the method serves no regulatory or compliance purpose and is shown to be exempt from public disclosure under § 4.61.

49. One comment regarding proposed § 320.3(m) stated that the proposal to establish tests and standards based on secret data is so novel and raises such serious questions of consistency with established principles of due process that it requires further explanation and opportunity for comment.

The Commissioner advises that if data and information voluntarily submitted to

FDA are determined to be trade secrets under § 4.61 FDA is precluded from disclosing these data and information. If the data and information identify a bioequivalence problem, however, protection of the public health requires FDA to take regulatory action to remedy the problem. The Commissioner believes it is inconsistent with due process to issue a proposed bioequivalence requirement on the basis of "secret data and information" that interested persons can neither see nor comment upon. Therefore, FDA will release a summary of these data and information (see paragraph 47) at the time a proposed bioequivalence requirement is published in the FEDERAL REGISTER. The Commissioner concludes that the comment's proposal to delay finalizing these regulations for further consideration of the procedural question is inconsistent with the public interest. The Commissioner, however, invites any interested person to submit a petition proposing a change in these regulations to prohibit the disclosure of analytical methods to determine bioequivalence. The Commissioner also requests that Congress reconsider whether any safety and effectiveness data, including bioequivalence data and methodology, should be treated as trade secrets.

OLD DRUG MONOGRAPHS

50. One comment concerning proposed § 320.3(o) (now § 320.60) stated that it is assumed that the yet-to-be-formalized old drug monograph concept will include a bioequivalence requirement for such monographed drug.

The Commissioner advises that, one of the approaches to old drug monographs now under consideration in FDA would provide that, if an old drug monograph is established for a drug product for which a bioequivalence requirement has been established, the monograph will include a requirement for bioequivalence testing.

MARKETING PRODUCTS THAT DO NOT MEET AN IN VITRO STANDARD

51. Several comments regarding proposed § 320.3(p) (now § 320.61) questioned why a manufacturer whose product does not meet an in vitro bioequivalence standard must, in lieu of reformulation to meet the standard, demonstrate that his product is bioavailable by in vivo testing of three consecutive batches of the drug product. The comments noted that one lot testing is apparently satisfactory if the product meets the in vitro bioequivalence standard, while in vivo testing is specific, absolute, and represents the primary standard of bioavailability; therefore, the comments suggested that in vivo testing be required for only one batch.

The Commissioner is of the opinion that in vivo testing of a single batch of a drug product that fails to meet an in vitro bioequivalence standard established through correlation with in vivo data is not sufficient to assure batch-to-batch uniformity. Therefore, if a drug product does not meet an in vitro bioequivalence standard, the manufacturer has the option of either reformulating the product to meet the standard or testing three consecutive batches in vivo to demonstrate bioequivalence and batch-to-batch uniformity. The option for in vivo testing was included in proposed § 320.3(p) because the Commissioner recognizes that, occasionally, a drug product that fails to meet an in vitro bioequivalence standard will nontheless be shown to be bioequivalent when tested in vivo. This is because the in vitro bioequivalence standard is designed to identify and screen out all batches that may not be bioequivalent. In selecting the standard, FDA must, if necessary for protection of the public health, err in favor of a standard that may result in the failing of a few batches that are later shown to be bioequivalent when tested in vivo rather than a standard that may result in the passing of a few batches that are shown not to be bioequivalent when tested in vivo. The Commissioner advises that proposed § 320.3 (1) (now § 320.56) requires that if a bioequivalence requirement specifies an in vitro bioequivalence standard, the manufacturer shall conduct the test on a sample of each batch to assure batch-to-batch uniformity. Thus, one lot testing is not satisfactory if the bioequivalence requirement is an in vitro bioequivalence standard.

Requirements for in vivo testing of a drug product not meeting an in vitro bioequivalence standard proposed in § 320.3 (p) have been revised for clarity and are in § 320.61 of the final regulations.

The Commissioner has carefully considered the environmental effects of the regulations and, because the action will 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 regulations as required by Executive Order 11821, OMB Circular A-107, and Guidelines issued by the Department of Health, Education, and Welfare, and no major inflation impact has been found. Copies of FDA environmental and inflation impact assessments are on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701(a), 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055 (21 U.S.C. 321(p), 352, 355, 371(a)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. In Part 314:

a. By adding to § 314.111 new paragraph (a)(8) to read as follows:

§ 314.111 Refusal to approve the application.

(a) * * *

(8) The applicant fails to submit bioavailability or bioequivalence data required under Part 320 of this chapter.

* * * * *

b. By adding to § 314.115 new paragraph (c)(5) to read as follows:

§ 314.115 Withdrawal of approval of an application.

* * * * *

(c) * * *

(5) That the applicant has failed to submit bioavailability or bioequivalence data required under Part 320 of this chapter.

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2. By adding new Part 320 consisting at this time of Subparts A and C to read as follows:

Subpart A—General Provisions

Sec.
320.1 Definitions.

Subpart B—[Reserved]

Subpart C—Bioequivalence Requirements

320.50 Purpose.
320.51 Procedures for establishing or amending a bioequivalence requirement.
320.52 Criteria and evidence to establish a bioequivalence requirement.
320.53 Types of bioequivalence requirements.
320.54 Contents of a petition to establish a bioequivalence requirement.
320.55 Requirements for batch testing and certification by the Food and Drug Administration.
320.56 Requirements for in vitro testing of each batch.
320.57 Requirements for the conduct of in vivo bioequivalence testing in humans.
320.58 Requirements for marketing a drug product subject to a bioequivalence requirement.
320.59 Bioequivalence requirements based on data voluntarily submitted.
320.60 Bioequivalence requirements for a drug product subject to an old drug monograph.
320.61 Requirements for in vivo testing of a drug product not meeting an in vitro bioequivalence standard.
320.62 Requirements for maintenance of records of bioequivalence testing.

AUTHORITY: Secs. 201(p), 502, 505, 701(a), 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055 (21 U.S.C. 321(p), 352, 355, 371(a)), unless otherwise noted.

Subpart A—General Provisions

§ 320.1 Definitions.

(a) [Reserved]

(b) "Drug product" means a finished dosage form, e.g., tablet, capsule, or solution, that contains the active drug ingredient, generally, but not necessarily, in association with inactive ingredients.

(c) "Pharmaceutical equivalents" means drug products that contain identical amounts of the identical active drug ingredient, i.e., the same salt or ester of the same therapeutic moiety, in identical dosage forms, but not necessarily containing the same inactive ingredients, and that meet the identical compendial or other applicable standard of identity, strength, quality, and purity, including potency and, where applicable, content uniformity, disintegration times and/or dissolution rates.

(d) "Pharmaceutical alternatives" means drug products that contain the identical therapeutic moiety, or its precursor, but not necessarily in the same

amount or dosage form or as the same salt or ester. Each such drug product individually meets either the identical or its own respective compendial or other applicable standard of identity, strength, quality, and purity, including potency and, where applicable, content uniformity, disintegration times and/or dissolution rates.

(e) "Bioequivalent drug products" means pharmaceutical equivalents or pharmaceutical alternatives whose rate and extent of absorption do not show a significant difference when administered at the same molar dose of the therapeutic moiety under similar experimental conditions, either single dose or multiple dose. Some pharmaceutical equivalents or pharmaceutical alternatives may be equivalent in the extent of their absorption but not in their rate of absorption and yet may be considered bioequivalent because such differences in the rate of absorption are intentional and are reflected in the labeling, are not essential to the attainment of effective body drug concentrations on chronic use, or are considered medically insignificant for the particular drug product studied.

(f) "Bioequivalence requirement" means a requirement imposed by the Food and Drug Administration for in vitro and/or in vivo testing of specified drug products which must be satisfied as a condition of marketing.

Subpart B—[Reserved]

Subpart C—Bioequivalence Requirements

§ 320.50 Purpose.

This subpart establishes criteria and procedures for:

(a) Identifying pharmaceutical equivalents and pharamaceutical alternatives that are intended to be used interchangeably for the same therapeutic effect and that are not bioequivalent drug products; and

(b) Establishing a bioequivalence requirement for these drug products.

§ 320.51 Procedures for establishing or amending a bioequivalence requirement.

(a) The Commissioner of Food and Drugs, on his own initiative or in response to a petition by an interested person, may propose and promulgate a regulation to establish a bioequivalence requirement if he finds there is well-documented evidence that specific pharmaceutical equivalents or pharmaceutical alternatives intended to be used interchangeably for the same therapeutic effect:

(1) Are not bioequivalent drug products; or

(2) May not be bioequivalent drug products based on the criteria set forth in § 320.52; or

(3) May not be bioequivalent drug products because they are members of a class of drug products that have close structural similarity and similar physicochemical or pharmacokinetic properties to other drug products in the same class that the Commissioner finds are not bioequivalent drug products.

(b) Any person submitting a petition to the Commissioner to propose a regulation to establish or amend a bioequivalence requirement shall submit the petition under §§ 2.5 and 2.7 of this chapter, and include in the petition the applicable information set forth in § 320.54.

(c) The Commissioner shall include in a notice of proposed rulemaking to establish a bioequivalence requirement the evidence and criteria set forth in § 320.52 that are to be considered in determining whether to issue the proposal. If the rulemaking is proposed in response to a petition, the Commissioner shall include in the proposal a summary and analysis of the relevant information that was submitted in the petition as well as other available information to support the establishment of a bioequivalence requirement.

(d) The Commissioner, on his own initiative or in response to a petition by an interested person, may propose and promulgate an amendment to a bioequivalence requirement established under this subpart.

§ 320.52 Criteria and evidence to establish a bioequivalence requirement.

The Commissioner shall consider the following factors, when supported by well-documented evidence, to identify specific pharmaceutical equivalents and pharmaceutical alternatives that are not or may not be bioequivalent drug products and to determine whether to propose or promulgate a regulation to establish a bioequivalence requirement for these products:

(a) Evidence from well-controlled clinical trials or controlled observations in patients that such drug products do not give comparable therapeutic effects.

(b) Evidence from well-controlled bioequivalence studies that such products are not bioequivalent drug products.

(c) Evidence that the drug products exhibit a narrow therapeutic ratio, e.g., there is less than a 2-fold difference in median lethal dose (LD_{50}) and median effective dose (ED_{50}) values, or have less than a 2-fold difference in the minimum toxic concentrations and minimum effective concentrations in the blood, and safe and effective use of the drug products requires careful dosage titration and patient monitoring.

(d) Competent medical determination that a lack of bioequivalence would have a serious adverse effect in the treatment or prevention of a serious disease or condition.

(e) Physicochemical evidence that:

(1) The active drug ingredient has a low solubility in water, e.g., less than 5 milligrams per 1 milliliter, or, if dissolution in the stomach is critical to absorption, the volume of gastric fluids required to dissolve the recommended dose far exceeds the volume of fluids present in the stomach (taken to be 100 milliliters for adults and prorated for infants and children).

(2) The dissolution rate of one or more such products is slow, e.g., less than 50 percent in 30 minutes when tested using either a general method specified in an official compendium or a paddle method at 50 revolutions per minute in 900 milliliters of distilled or deionized water at 37° C, or differs significantly from that of an appropriate reference material such as an identical drug product that is the subject of an approved full new drug application.

(3) The particle size and/or surface area of the active drug ingredient is critical in determining its bioavailability.

(4) Certain physical structural characteristics of the active drug ingredient, e.g., polymorphic forms, conforms, solvates, complexes, and crystal modifications, dissolve poorly and this poor dissolution may affect absorption.

(5) Such drug products have a high ratio of excipients to active ingredients, e.g., greater than 5 to 1.

(6) Specific inactive ingredients, e.g., hydrophilic or hydrophobic excipients and lubricants, either may be required for absorption of the active drug ingredient or therapeutic moiety or, alternatively, if present, may interfere with such absorption.

(f) Pharmacokinetic evidence that:

(1) The active drug ingredient, therapeutic moiety, or its precursor is absorbed in large part in a particular segment of the gastrointestinal tract or is absorbed from a localized site.

(2) The degree of absorption of the active drug ingredient, therapeutic moiety, or its precursor is poor, e.g., less than 50 percent, ordinarily in comparison to an intravenous dose, even when it is administered in pure form, e.g., in solution.

(3) There is rapid metabolism of the therapeutic moiety in the intestinal wall or liver during the process of absorption (first-class metabolism) so the therapeutic effect and/or toxicity of such drug product is determined by the rate as well as the degree of absorption.

(4) The therapeutic moiety is rapidly metabolized or excreted so that rapid dissolution and absorption are required for effectiveness.

(5) The active drug ingredient or therapeutic moiety is unstable in specific portions of the gastrointestinal tract and requires special coatings or formulations, e.g., buffers, enteric coatings, and film coatings, to assure adequate absorption.

(6) The drug product is subject to dose dependent kinetics in or near the therapeutic range, and the rate and extent of absorption are important to bioequivalence.

§ 320.53 Types of bioequivalence requirements.

(a) A bioequivalence requirement may be one or more of the following, as specified by the Food and Drug Administration:

(1) An in vivo test in humans.

(2) An in vivo test in animals other than humans that has been correlated with human in vivo data.

(3) An in vivo test in animals other than humans that has not been correlated with human in vivo data.

(4) An in vitro bioequivalence standard, i.e., an in vitro test that has been

correlated with human in vivo bioavailability data.

(5) A currently available in vitro test (usually a dissolution rate test) that has not been correlated with human in vivo bioavailability data.

(b) In vivo testing in humans shall ordinarily be required if there is well-documented evidence that pharmaceutical equivalents or pharmaceutical alternatives intended to be used interchangeably for the same therapeutic effect meet one of the following conditions:

(1) They do not give comparable therapeutic effects.

(2) They are not bioequivalent drug products.

(3) They exhibit a narrow therapeutic ratio, e.g., there is less than a 2-fold difference in LD_{50} and ED_{50} values, or there is less than a 2-fold difference in the minimum toxic concentrations and minimum effective concentration in the blood, and safe and effective use of the product requires careful dosage titration and patient monitoring.

§ 320.54 **Contents of a petition to establish a bioequivalence requirement.**

(a) Each person submitting a petition to establish a bioequivalence requirement under this subpart shall include in the petition each of the following three types of information to justify this action:

(1) A statement summarizing the bioequivalence problem.

(2) Well-documented evidence that the drug products for which a bioequivalence requirement should be established are pharmaceutical equivalents or pharmaceutical alternatives that are labeled to be administered at the same dose of the same therapeutic moiety for the same therapeutic effect.

(3) Well-documented evidence and data in the categories listed in this paragraph, as applicable, to support the contention that a documented or potential bioequivalence problem exists.

(i) Well-documented evidence that the subject pharmaceutical equivalents or pharmaceutical alternatives do not give comparable therapeutic effects, together with a citation of supporting well-controlled observations or clinical trials in patients and a summary of their contents.

(ii) Well-documented evidence that the subject pharmaceutical equivalents or pharmaceutical alternatives are not bioequivalent drug products, together with appropriate data and/or citations of supporting well-controlled bioequivalence studies and a summary of their contents.

(iii) Well-documented evidence that the subject pharmaceutical equivalents or pharmaceutical alternatives exhibit a narrow therapeutic ratio, e.g., there is less than a 2-fold difference in LD_{50} or ED_{50} values, or have a less than 2-fold difference in the minimum toxic concentration and minimum effective concentrations in the blood, and safe and effective use of the drug product requires careful dosage titration and patient monitoring.

(iv) Competent medical determination that lack of bioequivalence would have a serious adverse effect in the treatment of a serious disease or condition.

(v) Well-documented evidence that the subject pharmaceutical equivalents or pharmaceutical alternatives, because of the physicochemical and/or pharmacokinetic characteristics set forth in § 320.52 (e) and (f), may not be bioequivalent drug products.

(vi) Well-documented evidence to support a finding that the pharmaceutical equivalents or pharmaceutical alternatives are members of a class of drug products that have close structural similarity and physicochemical or pharmacokinetic properties similar to other drug products that have been specifically shown to lack therapeutic equivalence or bioequivalence.

(b) Each person submitting a petition to establish a bioequivalence requirement under this subpart is requested, but is not required, to include in the petition a description of a proposed bioequivalence test as follows:

(1) A description of any proposed current in vitro test to be used pending the development of a definitive in vitro bioequivalence standard together with the evidence described in paragraph (c) of this section that this current in vitro test is suitable for comparing the subject pharmaceutical equivalents or pharmaceutical alternatives to a reference material.

(2) A description of any proposed in vitro bioequivalence standard, including a citation of in vivo data and other evidence described in paragraph (c) of this section which support the applicability of the proposed in vitro bioequivalence standard.

(3) A description of any proposed in vivo bioequivalence test, including the reference material to be used and other technical specification needed to assure uniform testing of the subject pharmaceutical equivalents or pharmaceutical alternatives together with a citation of supporting evidence described in paragraph (c) of this section and a summary of its contents.

(c) Scientific evidence cited in the petition shall include specific, precise information such as:

(1) The product names, batch numbers, labeling, and the identity of the manufacturer, packer, or distributor of the batches of the subject pharmaceutical equivalents or pharmaceutical alternatives included in the studies on which the evidence is based.

(2) The results of all in vitro physical and chemical tests conducted on the batches of the subject pharmaceutical equivalents or pharmaceutical alternatives to determine whether they meet compendial or other applicable standards of identity, strength, quality, and purity, including potency and, where applicable, content uniformity, disintegration rates, and dissolution rates.

(3) The results of any in vitro physicochemical tests conducted on the batches of the subject pharmaceutical equivalents or pharmaceutical alternatives studied other than those specified in the compendial or other applicable standard, e.g., particle size.

(4) The results of any in vivo bioequivalence test or in vitro bioequivalence test conducted on the batches of the subject pharmaceutical equivalents or pharmaceutical alternatives studied. These results shall present a validation of the analytical methodology, including the standard curve used and a description of the method of calculation of results, and a description of the pharmacokinetic model and/or statistical model used in analyzing the data.

(5) A full description of the analytical procedures and equipment used in conducting an in vivo or in vitro test on the subject pharmaceutical equivalents or pharmaceutical alternatives.

(d) Each person submitting a petition to establish a bioequivalence requirement under this subpart shall include in the petition copies of published reports in the scientific literature and unpublished material that support the establishment of a bioequivalence requirement for the subject pharmaceutical equivalents or pharmaceutical alternatives.

(e) Each person submitting a petition to establish a bioequivalence requirement under this subpart shall include in the petition information as to the availability of sufficient samples of the subject pharmaceutical equivalents or pharmaceutical alternatives studied to permit confirmatory testing by the Food and Drug Administration.

§ 320.55 **Requirements for batch testing and certification by the Food and Drug Administration.**

(a) If the Commissioner determines that individual batch testing by the Food and Drug Administration is necessary to assure that all batches of the same drug product meet an appropriate in vitro test, he shall include in the bioequivalence requirement a requirement for manufacturers to submit samples of each batch to the Food and Drug Administration and to withhold distribution of the batch until notified by the Food and Drug Administration that the batch may be introduced into interstate commerce.

(b) The Commissioner will ordinarily terminate a requirement for a manufacturer to submit samples for batch testing on a finding that the manufacturer has produced four consecutive batches that were tested by the Food and Drug Administration and found to meet the bioequivalence requirement, unless the public health requires that batch testing be extended to additional batches.

§ 320.56 **Requirements for in vitro testing of each batch.**

If a bioequivalence requirement specifies a currently available in vitro test or an in vitro bioequivalence standard comparing the drug product to a reference standard, the manufacturer shall conduct the test on a sample of each batch of the drug product to assure batch-to-batch uniformity.

§ 320.57 Requirements for the conduct of in vivo bioequivalence testing in humans.

(a) If a bioequivalence requirement provides for in vivo testing in humans, a manufacturer shall conduct this testing according to the procedures in § 320.24, using the most accurate, sensitive, and reproducible method available, and using the reference material specified in the bioequivalence requirement.

(b) Clinical trials demonstrating safety and effectiveness shall be used to establish bioequivalence only if other methods are not available.

(c) If a bioequivalence requirement provides for in vivo testing in humans using a method other than clinical trials, a manufacturer shall conduct this testing to assure that his product meets the bioequivalence requirement even though his product is the subject of an approved full new drug application containing clinical evidence of safety and effectiveness.

§ 320.58 Requirements for marketing a drug product subject to a bioequivalence requirement.

(a) If a bioequivalence requirement is established for a drug product subject to a new drug application that became effective before October 10, 1962, or for an identical, related, or similar drug product under § 310.6 of this chapter, the product may lawfully be introduced into interstate commerce as follows:

(1) Any manufacturer who holds an approved full or abbreviated new drug application for the drug product on the date the bioequivalence requirement becomes effective shall submit and obtain approval by the Food and Drug Administration of a supplemental application that provides evidence that the drug product meets the bioequivalence requirement. If a supplemental application is submitted within the time frame specified in the regulation establishing the bioequivalence requirement, the manufacturer may continue to market the drug product unless and until the supplemental application is disapproved and approval of the new drug application is withdrawn.

(2) Any manufacturer who does not hold an approved full or abbreviated new drug application for the drug product on the effective date of the bioequivalence requirement shall, before introducing the drug product into interstate commerce submit and obtain approval by the Food and Drug Administration of a full or abbreviated new drug application, as applicable, that provides evidence that the drug product meets the bioequivalence requirement.

(b) If a bioequivalence requirement is established for a drug product subject to a new drug application that was approved on or after October 10, 1962, the product may lawfully be introduced into interstate commerce as follows:

(1) Any manufacturer who holds an approved full new drug application for the drug product on the effective date of the bioequivalence requirement shall submit and obtain approval by the Food and Drug Administration of a supplemental application that provides evidence that the drug product meets the bioequivalence requirement. If a supplemental application is submitted within the time frame specified in the regulation establishing the bioequivalence requirement, the manufacturer may continue to introduce the drug product into interstate commerce unless and until the supplemental application is disapproved and approval of the new drug application is withdrawn.

(2) Any manufacturer who does not hold an approved full new drug application for the drug product on the effective date of the bioequivalence requirement shall, before introducing the drug product into interstate commerce, submit and obtain approval by the Food and Drug Administration of a full new drug application that provides evidence that the drug product meets the bioequivalence requirement.

(c) If a bioequivalence requirement is established for a drug product that is not subject to the new drug provisions of the act, the product may lawfully be introduced into interstate commerce as follows:

(1) The manufacturer records and maintains evidence that the drug product meets the bioequivalence requirement. Upon written request or notice in the FEDERAL REGISTER, the manufacturer shall promptly submit this evidence to the Food and Drug Administration.

(2) The drug product is manufactured in accordance with current good manufacturing practice, as determined by the requirements in Part 211 of this chapter.

(3) The drug product is labeled in compliance with the act and this chapter.

(d) A manufacturer may introduce into interstate commerce a drug product for which a bioequivalence requirement is established only if he complies with this section. Introduction of the drug product into interstate commerce not in compliance with this section is illegal and subject to regulatory action.

(e) Upon disapproval of a full or abbreviated new drug application or supplemental application, the procedures for disapproval of any new drug application under section 505(d) of the act apply. Introduction of the drug product involved into interstate commerce is illegal unless the Commissioner, in his discretion, determines to stay this disapproval for a particular drug product on a finding that all of the following conditions are met:

(1) The drug product was being lawfully marketed on the effective date of the bioequivalence requirement, i.e., if a new drug, it was already subject to an approved full or abbreviated new drug application.

(2) The drug product is medically necessary, e.g., it is used in treatment of a serious disease or condition for which no alternative therapy is available.

(3) There is not an adequate supply of identical or similar drug products subject to an approved full or abbreviated new drug application containing bioequivalence data to fulfill medical needs.

(4) The manufacturer submits a full or abbreviated new drug application or supplemental application, as applicable, containing an acceptable protocol for the conduct of bioequivalence studies and initiates action to conduct and complete the necessary studies within the time frame set forth in the bioequivalence requirement.

§ 320.59 Bioequivalence requirements based on data voluntarily submitted.

(a) A bioequivalence requirement established under this subpart may specify an analytical method, e.g., a current in vitro test, an in vitro bioequivalence standard, or an in vivo bioequivalence test, that is based on data and information voluntarily submitted to the Food and Drug Administration, even though these data and information are exempt from public disclosure under § 4.61 of this chapter.

(b) A summary of the voluntarily submitted data and information on which the bioequivalence requirement is based, prepared in one of the following two alternative ways, shall be publicly released when the bioequivalence requirement is proposed:

(1) The Food and Drug Administration may at an appropriate time before proposing the bioequivalence requirement require the person who voluntarily submitted the data and information to prepare a summary of these data and information, that will be reviewed and, where appropriate, revised by the agency.

(2) The Food and Drug Administration may prepare its own summary of these data and information.

(c) A bioequivalence requirement may specify an analytical method contained in a petition or approved new drug application, or based on data and information voluntarily submitted to the Food and Drug Administration, unless the method serves no regulatory or compliance purpose and is shown to be exempt from public disclosure under § 4.61 of this chapter.

§ 320.60 Bioequivalence requirements for a drug product subject to an old drug monograph.

If the Commissioner establishes an old drug monograph for a drug product for which a bioequivalence requirement has been established under this subpart, the provisions of this subpart as they relate to that drug product are thereby revoked.

§ 320.61 Requirements for in vivo testing of a drug product not meeting an in vitro bioequivalence standard.

(a) If a drug product fails to meet an in vitro bioequivalence standard established under this subpart and a manufacturer nevertheless wishes to market the product without reformulation, the manufacturer may do so if he demonstrates the bioequivalence of the drug product by in vivo testing in humans of three consecutive batches of the drug product and develops an in vitro test that assures the bioequivalence of his product from batch-to-batch.

(b) The reference material to be used by a manufacturer in conducting in vivo testing in humans under this section shall be a drug product that meets the in vitro bioequivalence standard.

§ 320.62 Requirements for maintenance of records of bioequivalence testing.

All records of in vivo or in vitro tests conducted on any marketed batch of a drug product to assure that the product meets a bioequivalence requirement shall be maintained by the manufacturer for at least 2 years after the expiration date of the batch and submitted to the Food and Drug Administration on request.

Effective date: These regulations shall become effective February 7, 1977.

(Secs. 201(p), 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055 (21 U.S.C. 321(p), 352, 355, 371(a)).)

Dated: December 30, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-568 Filed 1-6-77;8:45 am]

[Docket No. 75N-0051]

PART 314—NEW DRUG APPLICATIONS

PART 320—BIOAVAILABILITY AND BIOEQUIVALENCE REQUIREMENTS

Procedures for Determining the In Vivo Bioavailability of Drug Products

The Food and Drug Administration (FDA) is issuing final regulations defining the term "bioavailability" establishing requirements for the inclusion of bioavailability data in certain new drug applications and supplements, and establishing acceptable procedures for determining the bioavailability of drug products. These regulations are effective July 7, 1977.

In the FEDERAL REGISTER of June 20, 1975 (40 FR 26157), the Commissioner of Food and Drugs proposed regulations to define the term "bioavailability," to set forth the purposes of bioavailability studies, and to establish methods and procedures for determining the bioavailability of drug products. Interested persons were invited to submit comments regarding the proposal on or before August 4, 1975. In response to requests, the Commissioner extended the comment period to September 19, 1975, notice of which was published in the FEDERAL REGISTER of August 15, 1975 (40 FR 34407).

The Commissioner received a total of 34 written comments from individuals, trade and professional associations, pharmaceutical manufacturers, and State and Federal government agencies. Twenty of these made substantive comments on the proposed regulations, 4 comments from individual consumers supported action to assure drug uniformity, and 10 other comments were more closely related to other proposed regulations published in the FEDERAL REGISTER of June 20, 1975 (40 FR 26164), and will be considered along with other comments submitted in response to those other proposed regulations. All of the comments may be seen at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

After reviewing the comments and the proposed regulations, the Commissioner concludes that the proposed regulations should be reorganized. He believes that the bioavailability regulations proposed in § 320.2 are too complex to be contained in only one section of the Code of Federal Regulations. Therefore, in the final regulations he is rearranging and redesignating proposed § 320.2 as §§ 320.21 through 320.31 and placing them in new Subpart B—Procedures for Determining the Bioavailability of Drug Products. This action will assure that the bioavailability regulations are easier to find, read, and understand.

To aid the reader, the following table is provided to show the relationship of the final regulations to those proposed in § 320.2.

Proposed	*Final*
§ 320.2(a)	§ 320.21
§ 320.2(b)	§ 320.24
§ 320.2(c)	§ 320.22
§ 320.2(d) (1), (2), (3), and (4)	§ 320.25
§ 320.2(d)(5)(i)–(vi)	§ 320.26
§ 320.2(d)(5)(vii)	§ 320.28
§ 320.2(d)(6)	§ 320.27
§ 320.2(d)(7)	§ 320.29
§ 320.2(d)(8)	§ 320.30(a)–(b)
§ 320.2(d)(9)	§ 320.23
§ 320.2(e)	§ 320.31
§ 320.2(f)	§ 320.30(c)

The substantive comments were concerned with various specific provisions of the proposed regulations and contained recommendations for changes. These comments and the Commissioner's conclusions concerning them are discussed below.

DEFINITION OF BIOAVAILABILITY

1. One comment stated that the term "therapeutic moiety" in the proposed definition of "bioavailability" should be replaced by "parent drug and/or its metabolites." The comment noted that, in determining bioavailability, one is limited by available methodology and knowledge with the result that, in many cases, there is no assurance that the actual therapeutic moiety is measured. This comment also recommended that the phrase "becomes available to the site of drug action" be deleted since it is overly optimistic to presume that bioavailability data consisting of estimates of parent drug and/or metabolite concentration in body fluids, rate of excretion, or the measurement of an acute pharmacologic effect provides, as a general rule, an estimate of the availability of the therapeutic moiety at the site of drug action.

The Commissioner, while agreeing in principle with the comment regarding the term "therapeutic moiety," believes that the term "active drug ingredient" is more appropriate and better understood than the term "parent drug." The Commissioner does not agree that the term "bioavailability" should refer to "metabolites." Although bioavailability may be determined by measurements of metabolites in body fluids or excretory products, bioavailability per se does not involve absorption of metabolites. He also believes that in some drug products the therapeutic moiety, not the active drug ingredient, is absorbed. Therefore, he concludes that the term "active drug ingredient or therapeutic moiety" shall be substituted for the term "therapeutic moiety" in the definition of "bioavailability" in § 320.1.

The Commissioner agrees that bioavailability data alone do not estimate the availability of the therapeutic moiety at the site of drug action. It is scientifically valid to assume, however, that if an active drug ingredient or therapeutic moiety reaches a reasonable extent of systemic circulation at a reasonable rate, the therapeutic moiety will also become available at the site of drug action, e.g., brain, heart, or kidneys. For this reason, the Commissioner concludes that reference to availability at site of drug action should not be deleted. He also believes that omission of such a reference would incorrectly focus the definition of bioavailability exclusively on absorption of the active drug ingredient or therapeutic moiety from the drug product. Even where such absorption is total, the product may not be bioavailable because an insufficient amount of the active drug ingredient or therapeutic moiety reaches the systemic circulation. In certain instances, e.g., high first-pass metabolism in the liver or rapid renal clearance, the active drug ingredient or therapeutic moiety must be absorbed at a rate sufficient to overcome the metabolic or elimination mechanism and reach the systemic circulation so that the therapeutic moiety will become available at the site of drug action in sufficient amounts to elicit the intended therapeutic effect.

The Commissioner also concludes that it is inappropriate to include in the definition of bioavailibility the means by which bioavailability is usually estimated. Therefore, in § 320.1 of the final regulations he is defining bioavailability as "the rate and extent to which the active drug ingredient or therapeutic moiety is absorbed from a drug product and becomes available at the site of drug action." He is deleting the phrase "usually as estimated by its concentrations in body fluids, rate of excretion, or acute pharmacological effect" from the proposed definition of bioavailability. The measurements usually used in a determination of bioavailability are set forth in § 320.24(a) of the final regulations.

2. Another comment suggested that the definition of bioavailability be restricted to the time course of the administered drug in the systemic circulation. This comment stated that it is important that the time dependency of the event be emphasized because it is critical to the definition and, while urinary excretion and acute pharmacological effects are important methods, they are used under the assumption that they re-

fect, via a linear transformation, the rate and extent of availability to the general circulation. Thus, the concept of bioavailability is understood by most of the pharmaceutical scientific community to mean the rate and extent of absorption from those drug products in which the object of the formulation is to put the active drug ingredient into the systemic circulation. The comment also suggested that the definition be restricted to systemic drug products since bioavailability of products intended for topical or local use is not measured by the rate and extent of absorption from these products into the systemic circulation.

The Commissioner disagrees that bioavailability is determined only by measurement of the concentration of the active drug ingredient or therapeutic moiety in the systemic circulation. He concludes that other methods used for determining bioavailability, e.g., measurements of urinary excretion rates or acute pharmacological effects, are based on valid scientific assumptions that are understood and accepted by the scientific community. He also finds that such a restriction is not practicable in view of available methodology and scientific knowledge.

The Commissioner also disagrees that the definition of bioavailability should be restricted to systemic drug products. The concept of bioavailability applies to all drug products. The Commissioner acknowledges, however, that a requirement for bioavailability studies should not apply to certain drug products, e.g., topicals for local therapeutic effect. Section 320.22 of the final regulations sets forth the criteria that FDA will use to waive a requirement for the submission of evidence of in vivo bioavailability.

3. A third comment stated that, to avoid ambiguity and confusion, the term bioavailability should be redefined to allow a determination of bioavailability by measurement of a number of physical dimensions. The comment suggested that bioavailability be defined as "the sum of knowledge that allows one quantitatively to define, insofar as is technically feasible, the dynamic interrelations among the following: (a) The time-dependent drug release from a pharmaceutical product, (b) the time-dependent concentrations of drug in various body fluids and tissues, (c) the time-dependent concentrations of drug at the sites of its actions, (d) the time-dependent actions of the drug, (e) the time-dependent rates at which drug leaves the body, by its metabolic conversion to other substances and by the excretion of unaltered drug and its metabolites through various routes."

The Commissioner concludes that the definition suggested in the comment is not practical for regulatory purposes. The concepts set forth in the suggested definition are more properly related to the broad subject of pharmacokinetics and pharmacodynamics, than to the more limited concept of bioavailability.

REQUIREMENTS FOR SUBMISSION OF BIOAVAILABILITY DATA

4. Two comments regarding proposed § 320.2(a) indicated that, although there is great emphasis in the proposed regulations on bioavailability problems derived from active drug ingredients, this same emphasis is not given to the effects that changes in inactive ingredients may have on bioavailability. These comments stated that subtle inclusions or changes of inactive ingredients in a drug product may have a significant effect on bioavailability. Another comment indicated that changes in dyes, flavors, or preservatives are not necessarily good examples of significant changes in product formulations. The comment suggested that better examples of significant changes requiring bioavailability tests are changes in excipients, tablet compression, coatings, vehicles, and particle size. One comment noted that the phrase "significant change in product formulation" in proposed § 320.2(a)(1) is too narrow and vague and suggested the phrase be revised to read "changes beyond the variations provided for in the application with respect to product formulation."

The Commissioner agrees with these comments and concludes that any proposed change in the manufacturing process, including a change in product formulation or dosage strength, beyond the variations provided for in the approved application must first be evaluated and approved by FDA. These requirements are included in § 320.21(b) of the final regulations.

The Commissioner advises that past FDA policy has been to require in vivo bioavailability data (particularly pharmacokinetic data) in a supplemental application proposing a change in the labeling to provide for a new indication for use, a new dosage regimen, or an additional dosage regimen for a special patient population, e.g., infants, if clinical studies are required to support the proposed change in the labeling.

In the final regulations the Commissioner is redesignating proposed § 320.2(a) as § 320.21. He is also expanding § 320.21 to clarify the requirements for the submission of in vivo bioavailability data in a full or abbreviated new drug application (NDA) or supplemental application. Section 320.21 requires that any full or abbreviated NDA, and certain supplemental applications, submitted after July 7, 1977, must include either evidence demonstrating the in vivo bioavailability of the drug product that is the subject of the application or information to permit FDA to waive this requirement. (The conditions justifying waiver are discussed below.) Supplemental applications for which bioavailability data or waiver information is required are those proposing (a) a change in the manufacturing process, including a change in product formulation or dosage strength, beyond the variations provided for in the approved application, or (b) a change in the labeling to provide for a new indication for use, a new dosage regimen, or an additional dosage regimen for a special patient population. Bioavailability data or waiver information are required for a proposed change in the labeling only if clinical studies are required to support the proposed change.

5. One comment suggested that the words "concerning a significant change in product formulation" be added after the words "supplemental application" in proposed § 320.2(a)(2). The suggestion was made in order that the wording of paragraph (a)(2) may be consistent with the wording of paragraph (a)(1).

The wording in proposed § 320.2(a)(2) was intended to be consistent with the wording of proposed § 320.2(a)(1). The inconsistency is eliminated in § 320.21 of the final regulations, but the word "significant" has been deleted as discussed in paragraph 4 above.

6. Two comments recommended that the requirements of proposed § 320.2(a)(1) and (2) regarding the submission of bioavailability data in an original NDA be deleted. The comments stated that the inclusion of such data is unnecessary and may contribute to unwarranted delay in approval of the application. Furthermore, they argued, there is no need to show bioavailability of a drug product subject to an original NDA since the product must by clinical data be proven effective and, therefore, bioavailable.

The Commissioner disagrees with these comments. As discussed in paragraph 1 of the preamble to the proposal of June 20, 1975 (40 FR 26157), bioavailability data are necessary to define the pharmacokinetic profile of the new drug and to evaluate the adequacy of the proposed labeling recommendation regarding dosage and administration. These pharmacokinetic data are also needed to assure that the dosage formulation intended for marketing has the same characteristics as the dosage formulation used in clinical studies to determine safety and effectiveness and that there is batch-to-batch consistency. The inclusion of bioavailability data in the application will assist in evaluating future product reformulations or changes in manufacturing processes. As also noted in the preamble to the proposal, a clinical trial to establish the safety and effectiveness of a drug product is the least accurate, sensitive, and reproducible method for determining bioavailability and is adequate only when other methods are not available.

7. Under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)), FDA may require a holder of an approved full or abbreviated NDA to conduct additional in vivo studies to demonstrate the bioavailability of the drug product that is the subject of the application. The Commissioner therefore is including in § 320.21(f) of the final regulations a requirement for the submission of in vivo bioavailability data if FDA notifies the applicant that there are data demonstrating that (a) the

dosage regimen in the labeling is based on incorrect assumptions or facts regarding the pharmacokinetics of the drug product and following this dosage regimen could potentially result in subtherapeutic or toxic levels, or (b) there is significant intra-batch or batch-to-batch variability, e.g., plus or minus 25 percent, in the bioavailability of the drug product. The Commissioner advises that these requirements represent existing FDA policy under section 505(j) of the act. Notice-and-comment rule making procedures are not a prerequisite to promulgation of § 320.21(f) with these final regulations, because it imposes no regulatory requirements but merely describes the criteria used by FDA in determining when to require an NDA holder to submit evidence demonstrating in vivo bioavailability. Section 505(j) of the act authorizes FDA to require, either by general regulation or by order with respect to a specific NDA, an applicant to make reports with respect to the drug subject to the application. For these reasons, the Commissioner finds it unnecessary to utilize notice-and-comment procedures in adopting § 320.21(f); he does, however, invite comments to determine whether these criteria should be amended, modified or revoked. Interested persons may, on or before March 8, 1977, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments in quintuplicate on § 320.21(f). Comments received will be available for public inspection at the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday. Any changes justified by such comments will be the subject of a further order.

8. The Commissioner, to clarify the intent of § 320.21, has included in § 320.21(g) a statement that the requirements for the submission of evidence demonstrating in vivo bioavailability apply only to a full or abbreviated NDA or supplemental application for a finished dosage formulation.

GENERAL APPROACHES FOR DETERMINING BIOAVAILABILITY

9. One comment suggested that the term "therapeutic moiety" in proposed § 320.2(b)(2)(ii) be replaced by the term "parent drug and/or its metabolites." The comment noted that the acute pharmacologic effect measured may not always be elicited by the therapeutic moiety.

The Commissioner agrees, in principle, with this comment. He concludes, however, that the term "active drug ingredient" is more appropriate than "parent drug." He is revising §§ 320.21 through 320.31 of the final regulations to expand the term "therapeutic moiety" to include the active drug ingredient and metabolites, as appropriate.

10. One comment recommended that proposed § 320.2(b)(2)(ii) be revised to specify that the acute pharmacological effect that forms the basis of a bioavailability study should bear a relationship to the anticipated therapeutic effect of the drug product and not an ancillary side effect. The comment indicated, for example, it would be inappropriate to base a bioavailability evaluation of an antidepressant or other drug affecting the central nervous system on an acute cardiovascular or other peripheral pharmacologic response elicited by the compound.

The Commissioner disagrees with this comment. The purpose of a bioavailability study is to determine the rate and extent of the absorption of the active drug ingredient or therapeutic moiety from a drug product. He concludes that it is scientifically valid to determine bioavailability by a measurement of an acute pharmacological effect that is attributable to the systemic circulation of the active drug ingredient or therapeutic moiety, even though this effect does not bear a direct relationship to the drug product's anticipated therapeutic effect. For example, FDA has contracted for bioavailability studies on chlorpromazine hydrochloride (an antiemetic or antipsychotic agent) that relate absorption of the drug to its pharmacological effect on the eye.

11. One comment regarding proposed § 320.2(b)(2)(iii) stated that, although a well-controlled clinical trial may in the abstract seem a less sensitive means of determining bioavailability, such a trial is the superior means for determining therapeutic effectiveness, which is the intended goal of bioavailability studies in the first place. The comment noted that proposed § 320.2(b) implies that bioavailability studies produce more reliable data than the well-controlled clinical trial for determining therapeutic equivalence among drug formulations and tends to give the bioavailability study greater importance than it deserves. The comment suggested that some statements be put in the regulations to reflect a balanced perspective regarding clinical trials.

The Commissioner agrees that clinical trials are the optimal method for determining the effectiveness of a drug product. It is not, however, the intent of a bioavailability study to demonstrate effectiveness. The purpose of a bioavailability study is to determine the rate and extent of absorption. If a drug product is not bioavailable, it cannot be regarded as effective. However, a determination that a drug product is bioavailable is not in itself a determination of effectiveness. The requirement for evidence of bioavailability is intended to supplement, nor replace, clinical evidence of effectiveness. Although clinical trials do demonstrate the bioavailability of a drug product, such trials are not as accurate, sensitive, or reproducible as other methods, e.g., blood level studies, for obtaining bioavailability data. Therefore, the Commissioner concludes that no revision of the regulations is necessary.

12. One comment stated that it is evident that safety and effectiveness, as established in clinical trials, are direct evidence of whether the product is absorbed. For this reason, it is inappropriate to impose a retroactive requirement for in vivo bioavailability data on NDA holders who have conducted clinical trials to establish safety and effectiveness, except in those instances of significant changes in product formulation.

The Commissioner advises that the bioavailability regulations do not require a current holder of an approved NDA to submit bioavailability data on the drug product that is the subject of the application. To conserve testing resources and to implement the requirements for the submission of bioavailability data in an orderly manner and with logical priorities, the regulations are being applied prospectively to all future NDA's and future supplements to existing NDA's. The Commissioner believes that this approach is justified because clinical trials on drug products subject to existing NDA's create a presumption of bioavailability that should remain unless there is evidence to the contrary.

13. One comment, noting that proposed § 320.2(b)(1) states that bioavailability testing shall be conducted using the most accurate and sensitive approach available, questioned whether a manufacturer will be required to conduct additional bioavailability studies if a more sensitive method becomes available after he completes such studies for his drug product using a less sensitive method.

The Commissioner advises that a manufacturer may be required to conduct additional bioavailability studies if a more sensitive method becomes available and if there is evidence that the method used by the manufacturer is not adequate to demonstrate the bioavailability of the drug product. The Commissioner believes that, in view of limited testing resources, it is impractical and not in the interest of public health to require retesting whenever a more sensitive method becomes available, particularly if this new method is only marginally more sensitive than previous methods.

14. One comment suggested that proposed § 320.2 specify that an isotopically labeled drug product may be used for assay in those cases where a more specific assay method is not available.

The Commissioner does not rule out studies using radioactive or nonradioactive isotopes; however, each such study must be considered on an ad hoc basis. The Commissioner concludes that a bioavailability study using an isotopically labeled drug may be deficient in that such a study involves a nonmarketable form of the drug product. The key to proper bioavailability studies is to use the dosage form intended for commercial distribution. If an isotopically labeled version of the drug product is used, it means that a special form of the active drug ingredient is being used. This version may differ in polymorphic form, particle size, or other physicochemical characteristics from the nonlabeled active drug ingredient. The bioavailability of the isotopically labeled drug product may differ from the nonlabeled drug. Such studies, however, may be approved

if the in vivo performance of the isotopically labeled drug product is fully characterized to assure that it is equivalent to the dosage form intended for commercial distribution. The Commissioner is including in § 320.24(d)(4) of the final regulations specific reference to radioactive and nonradioactive isotopically labeled drug products. The Commissioner concludes that a bioavailability study involving a nonradioactive isotopically labeled drug product need not be conducted under a "Notice of Claimed Investigational Exemption for a New Drug" if the study is otherwise exempt from such a requirment under § 320.31. There is no evidence that the use of a nonradioactive isotope per se presents a hazard to research subjects. The use of a radioactively labeled drug product in a bioavailability study shall be under a "Notice of Claimed Investigational Exemption for a New Drug" submitted under § 312.1. The Commissioner is including this requirement in § 320.31(a)(2) of the final regulations.

CRITERIA FOR WAIVER OF IN VIVO BIOAVAILABILITY DATA

15. One comment stated that proposed § 320.2(c)(2)(i) should be revised by adding the words "or oral" after "intravenous." This revision would permit waiver of evidence of in vivo bioavailability for a drug product in solution for oral use.

The Commissioner does not fully agree with this comment. Any oral dosage form, solution or otherwise, must be formulated and manufactured in such a manner that the active drug ingredient or therapeutic moiety is released from the drug product and becomes bioavailable, i.e., the active drug ingredient or therapeutic moiety is absorbed into the systemic circulation and becomes available at the site of drug action. Although release of the active drug ingredient or therapeutic moiety is not a factor in an oral solution, absorption into the systemic circulation depends upon many factors, including the pKa (the negative logarithm of the ionization constant of a chemical compound) of the active drug ingredient or therapeutic moiety, the pH of the physiological environment, lipid solubility, viscosity of the solution, the presence of certain inactive ingredients, and the stability of the active drug ingredient or therapeutic moiety in the gastrointestinal tract. The fact that an oral drug product is in solution does not guarantee its absorption into the systemic circulation. The Commissioner concludes, however, that the requirement for the submission of in vivo bioavailability data shall be waived if a drug product (a) is an oral solution, elixir, syrup, tincture, or similar other solubilized form, (b) contains an active drug ingredient or therapeutic moiety in the same concentration as a drug product that is the subject of an approved full NDA, and (c) contains no inactive ingredient that is known to significantly affect absorption of the active drug ingredient or therapeutic moiety. Section 320.22(b)(5) of the final regulations permits this waiver if all of these conditions are met.

16. Proposed § 320.2(c)(2)(i) could be interpreted as permitting waiver of the submission of in vivo bioavailability data for any intravenous solution.

The Commissioner advises that this was not the intent of the proposal. Bioavailability data are needed to support dosage recommendations if the intravenous solution contains (a) an active drug ingredient or therapeutic moiety that is not the subject of an approved full NDA or (b) an active drug ingredient or therapeutic moiety that is the subject of an approved full NDA but which has not been approved for use in an intravenous solution in the same solvent and concentration. The Commissioner is clarifying the proposal's intent in the final regulations. Section 320.22(b)(1) permits waiver of the submission of in vivo bioavailability data if the intravenous solution contains an active drug ingredient or therapeutic moiety in the same solvent and concentration as an intravenous solution that is the subject of an approved full NDA.

17. One comment regarding proposed § 320.2(c)(2)(ii) and (iii) stated that the term bioavailability is simply unsuitable when applied to vehicles (e.g., emollients and syrups) and devices. Another comment stated that products such as emollients to the skin or syrups used as flavored placebos are not drugs as defined in section 210(g) of the act (21 U.S.C. 321(g)) or drug products as defined in § 320.1(b) of the proposed procedures for establishing a bioequivalence requirement and the final regulations published elsewhere in this issue of the FEDERAL REGISTER. The comment recommended that these examples be deleted from the proposed regulations.

The Commissioner advises that the intent of proposed § 320.2(c)(2)(ii) and (iii) was to specify kinds of drug products for which evidence of in vivo bioavailability may be waived. The Commissioner disagrees that emollients to the skin or syrups used as flavored placebos are not drugs. Such products may be drugs depending upon their intended use. To clarify the intent of the proposal, the Commissioner is revising the final regulations. Section 320.22(b) permits waiver of the submission of in vivo bioavailability data if the product's bioavailability is self evident or not necessary for the product to achieve any of its intended purposes. This section permits waiver if the product is a topically applied preparation intended for local therapeutic effect. The Commissioner is deleting the reference to devices such as lenses for the eye and surgical sutures. These devices are subject to and will be regulated under the provisions of the Medical Device Amendments of 1976, not the new drug provisions of the act.

18. Four comments regarding proposed § 320.2(c)(3) stated that bioavailability cannot be established or guaranteed by an in vitro test without proper in vivo correlation.

The Commissioner concludes that, under the conditions set forth in § 320.22(d) of the final regulations, bioavailability may be demonstrated by evidence obtained in vitro in lieu of in vivo data. These conditions allow in vitro testing only if (a) the in vitro test has been correlated with in vivo data, (b) the test product is compared to a reference material that has been shown to be bioavailable, or (c) the test product is compared to an identical drug product that is the subject of an approved full or abbreviated NDA. The Commissioner believes that this approach is justified in view of the limited resources available for in vivo testing and is in keeping with the guiding principle that no unnecessary human research should be done.

19. One comment stated that in vitro testing may be adequate to demonstrate the equivalence of a reformulated drug product if the reformulation involves changes in color, flavors, or preservatives.

The Commissioner agrees and the final regulations under § 320.22(d)(4) permit in vitro testing when the proposed reformulated drug product is identical, except for color, flavor, or preservatives, to another drug product made by the same manufacturer, e.g., the same product before reformulation, and if the in vitro test approved by FDA compares the reformulated product to the other drug product and that other product has previously been shown to be bioavailable.

20. One comment noted that proposed § 320.2(c)(3)(ii) requires the use of an in vitro dissolution test. The comment stated that in vitro indicators other than dissolution tests have been used that successfully correlate with in vivo results and recommended that the statement "in vitro dissolution test" be changed to read "in vitro test."

The Commissioner agrees and is amending the final regulations to delete the word "dissolution" wherever it appears in conjunction with a requirement for in vitro testing.

21. The Commissioner concludes that the requirements for the submission of evidence demonstrating the in vivo bioavailability of a solid oral dosage form (other than an enteric coated or controlled release dosage form) of a drug product determined to be effective for at least one indication in a DESI (Drug Efficacy Study Implementation) notice, or identical, related, or similar to such a drug product under § 310.6 (21 CFR 310.6), shall be waived if the drug product is neither one of those identified in the preamble to the proposed bioequivalence regulations as having an actual or potential bioequivalence problem (see proposed procedures for establishing a bioequivalence requirement published in the FEDERAL REGISTER of June 20, 1975 (40 FR 26164)) nor an identical, related or similar drug product. The FDA, in preparing the proposed bioequivalence regulations, reviewed all of the drug products evaluated as effective for at least one indication in a DESI notice and determined that, except for those drug products listed in the preamble, there is at the present time no evidence that these drug products have a known or

potential bioequivalence problem. The Commissioner believes that this approach is justified in view of the limited availability of resources for in vivo testing and is in keeping with the guiding principle that no unnecessary human research be conducted. The Commissioner, on his own initiative, has amended § 320.22(c) of the final regulations to permit such a waiver. Section 320.22(c) specifies those drug products determined to be effective for at least one indication in a DESI notice that have been identified by FDA as having a known or potential bioequivalence problem. Those drug products are the same as those listed in the preamble to the proposed bioequivalence regulations except that drug products not evaluated as effective for at least one indication have been deleted.

The Commissioner advises that, on an ad hoc basis, additional data regarding product specifications or testing may be required for approval of a full or abbreviated NDA for individual drug products if these data are needed to assure proper manufacturing controls or biopharmaceutical quality. These data may include, among others, requirements regarding particle size or in vitro dissolution testing.

The Commissioner also advises that the requirements of Subpart B of Part 320 regarding the submission of bioavailability data for drug products evaluated as effective for at least one indication in a DESI notice, or identical, related, or similar to such products under § 310.6, supersede all requirements for the submission of bioavailability data in prior individual DESI notices. The Commissioner also advises that the procedures for establishing a bioequivalence requirement (see Subpart C of Part 320 published elsewhere in this issue of the FEDERAL REGISTER) will be used to establish requirements for the submission of bioequivalence data for drug products evaluated in the Drug Efficacy Study. When a bioequivalence requirement is established for any of the drug products listed in § 320.22(c), the Commissioner will act to amend this section to delete the drug product.

22. The Commissioner, on his own initiative, is also amending § 320.22(e) of the final regulations to permit FDA, for good cause, to defer or waive a requirement for the submission of evidence of in vivo bioavailability if deferral or waiver is compatible with the protection of the public health. The Commissioner believes that these provisions are necessary to allow FDA to permit the continued marketing of medically important drug products while adequate methodology is being developed or bioavailability studies are being conducted. For example, FDA may defer or waive the requirement for the submission of evidence of in vivo bioavailability when FDA, on the basis of new evidence, requires manufacturers to reformulate their products to delete an inactive ingredient. The FDA may also defer such a requirement if adequate methodology is not available for in vivo testing. The Commissioner believes that such a deferral is necessary to avoid the conduct of an improper study and unwarranted human research. In deferring or waiving such a requirement, FDA will consider whether protection of the public health will best be served by such deferral or waiver or by removal from the market of the drug products until the required data are submitted in a supplemental application.

GUIDELINES FOR THE CONDUCT OF IN VIVO BIOAVAILABILITY STUDIES

23. Two comments suggested that the guidelines for the conduct of in vivo bioavailability studies be revised to indicate that, for systemic drug products, the reference material of choice is the same active drug ingredient or therapeutic moiety administered intravenously in solution.

The Commissioner does not agree that the intravenous administration of a solution of the active drug ingredient or therapeutic moiety is necessarily the reference material of choice in determining the in vivo bioavailability of systemic drug products. Intravenous solutions can be utilized only if there are data available that demonstrate the safety of the intravenous administration of the active drug ingredient or therapeutic moiety, to assure that the intravenous administration is not toxic or does not produce adverse, life-threatening effects. In the absence of information about the performance of the intravenous administration of the drug in humans, such studies should be limited to animals.

REFERENCE MATERIALS

24. Three comments recommended that proposed § 320.2(d)(1)(i) be revised to make clear that the use of an oral solution or suspension as a reference material can give only an index of the relative bioavailability, because a comparison with that form and the pharmacokinetic description derived will always contain the unknown factor of the fraction of the dose absorbed. Moreover, it is quite conceivable that a dosage form could be developed which, by means of surfactant, buffering, or other pharmaceutical techniques, shows better bioavailability than a solution or suspension form of an inherently poorly absorbed drug.

The Commissioner recognizes that only an index of the relative bioavailability can be determined by the comparison of a drug product to an oral solution or suspension of the active drug ingredient or therapeutic moiety. This was the intent of the proposed regulations. Section 320.25(d) of the final regulations, however, provides for a determination of absolute bioavailability where necessary and where data are available to show that the reference material may safely be administered intravenously in humans.

25. Another comment regarding proposed § 320.2(d)(1)(i) stated that the reference material should be a solution of the product or other appropriate dosage form but not a suspension because of the bioavailability variability of the suspension dosage form. This comment stated that in many instances a suspension of a poorly soluble active drug ingredient may be more poorly absorbed than a well-formulated tablet because of the presence of suspending agents which add viscosity, may bind to the ingredient, and, in general, may decrease both the rate and extent of absorption.

The Commissioner has determined that the provision of proposed § 320.2(d)(1)(i) (now § 320.25(d)(1)) allowing for the use of an oral suspension as a reference material is intended to cover those instances where the active drug ingredient or therapeutic moiety was not soluble in a solvent that is generally recognized as safe for human consumption. In such cases, a suspension may be an appropriate reference material provided any suspending agents used in preparing the suspension do not affect the bioavailability of the suspension and are generally recognized as safe for human consumption.

26. One comment questioned the example cited in the last sentence of proposed § 320.2(d)(1)(ii) providing that, in the case of a newly marketed tablet of a drug already marketed for intravenous administration only, the reference material shall ordinarily be not only the currently marketed intravenous solution but also the pure drug substance in an oral solution or suspension. The comment stated that it is difficult to see the benefit of the additional sampling necessary for a three-way study involving an oral solution or suspension of the drug when the optimum reference for bioavailability already exists as the intravenous form, unless the compound or product is such as to raise the suspicion of a problem with the bioavailability of the oral dosage form.

The Commissioner concludes that when a new dosage form of a drug (already marketed in another dosage form) is proposed for marketing, it is necessary to characterize fully the pharmacokinetic profile of the new dosage form to support dosage recommendations. The selection of the reference material depends upon the scientific questions to be answered and the data needed to establish dosage recommendations. He agrees with this comment, however, that in the specific example cited such information can be obtained using the intravenous dosage form of the drug product as the sole reference material and in § 320.25(d) of the final regulations has deleted the example.

27. Two comments stated that proposed § 320.2(d)(1)(ii) does not adequately differentiate formulation changes involving alternate routes of administration from other types of changes. For example, there should be no expectation that the bioavailability of orally, parenterally, and rectally administered drug products will be comparable, and it may be desirable for a dosage form with a different route of administration not to be "comparable" to the marketed drug product. The comment suggested that the last sentence in this section be

modified to state that when a new formulation, a new dosage form, or a new salt or ester of a marketed drug product is to be administered by an alternative route to those of the currently marketed drug product, the purpose of an in vivo bioavailability test is to determine the bioavailability of the proposed dosage form relative to a reference material.

The Commissioner agrees that it may be desirable for different dosage forms of the same active drug ingredient or therapeutic moiety to have different bioavailability profiles and that the purpose of a bioavailability study is to determine the bioavailability of the new dosage form. He concludes, however, that the regulation should clarify that bioavailability data are needed to define the pharmacokinetic profile of the new dosage form to establish dosage recommendations. The selection of the reference material will vary. For example, if the new dosage form is a tablet and the dosage form currently marketed is a suspension, the appropriate reference material would be not only the marketed dosage form but also the active drug ingredient or therapeutic moiety in an oral solution. However, if the new dosage form is a tablet and the dosage form currently marketed is an intravenous solution, the appropriate reference material would be the marketed dosage form. The appropriate reference material will vary depending upon the scientific questions to be answered and the data needed to establish dosage recommendations. The Commissioner is revising § 320.25(e) of the final regulations to state that the purpose of an in vivo bioavailability study involving a drug product that is a new formulation, a new dosage form, or a new salt or ester of an active drug ingredient or therapeutic moiety that has been approved for marketing is (a) to determine the bioavailability of the new formulation, new dosage form, or new salt or ester relative to an appropriate reference material and (b) to define the pharmacokinetic parameters of the new formulation, new dosage form, or new salt or ester to establish dosage recommendations. In such a case, the selection of the reference material(s) depends upon the scientific questions to be answered, the data needed to establish comparability to a currently marketed drug product, and the data needed to establish dosage recommendations.

CONTROLLED RELEASED DRUG PRODUCTS

28. One comment suggested that, for clarification, the words "controlled release" be inserted before the word "claims" at the end of the first sentence in proposed § 320.2(d)(1)(iii). As revised the sentence would read: "For a new drug product for which a controlled release claim is made, the purpose of an in vivo bioavailability test is to determine that the new product meets the controlled release claims made for it."

The Commissioner disagrees with that comment. He concludes that the purposes of an in vivo bioavailability study of a controlled release drug product are to determine: (a) If the drug product meets the controlled release claim made for it, (b) if the bioavailability profile established for the drug product rules out the occurrence of any dose dumping, (c) if the drug product's steady-state performance is equivalent to a currently marketed noncontrolled release or controlled release drug product that contains the same active drug ingredient or therapeutic moiety, and (d) if the drug product's formulation provides consistent pharmacokinetic performance between individual dosage units. He is revising § 320.25(f) of the final regulations to clarify the purpose of a bioavailability study for a controlled release drug product.

COMBINATION DRUG PRODUCTS

29. One comment objected to proposed § 320.2(d)(3) requiring that combination drug products must establish bioavailability by reference to simultaneous administration of the individual active drug ingredients. The comment stated that, if an in vivo-correlated in vitro bioavailability test exists for each component, and the component is established to be bioavailable from the combination in accordance with that test, then consistent with the mandate in other sections of the proposal to limit human testing, there is no good reason to require that bioavailability of each component be established by reference to simultaneous administration of each component, unless reason exists to suspect a probable drug interaction affecting the bioavailability of a component from the combination. Another comment stated that in certain combination products the purpose of the second ingredient may actually be to enhance or inhibit the rate of absorption of the primary ingredient and, therefore, provision for this type of combination should be included in the regulation.

The Commissioner advises that the intent of the regulations is to establish that, generally, the purpose of a bioavailability study involving a combination drug product is to determine if the rate and extent of absorption of each active drug ingredient or therapeutic moiety in the combination drug product is equivalent to the rate and extent of absorption of each active drug ingredient or therapeutic moiety in separate single-ingredient preparations given concurrently. The Commissioner reiterates that the regulations require the submission of in vivo bioavailability data unless the requirement is waived. Section 320.22 of the final regulations permits waiver of this requirement for a number of reasons, including evidence that the product meets an in vitro test that assures bioavailability, i.e., an in vitro test that has been correlated with in vivo data. Thus the requirement for the submission of in vivo data may be waived if the applicant submits evidence that the components of a combination drug product meet an in vitro test that assures that each component is bioavailable.

The Commissioner recognizes that in certain cases a second ingredient in a combination drug product is intended to affect the rate or extent of absorption of the primary active drug ingredient or therapeutic moiety. For example, probenecid may be combined with ampicillin to inhibit the tubular renal secretion of ampicillin and thus increase ampicillin plasma levels. The Commissioner is revising § 320.25(g)(3) of the final regulations to permit a bioavailability study involving a combination drug product to determine the rate and extent of absorption of selected, but not all, active drug ingredients or therapeutic moieties in the combination drug product. The FDA may permit this determination if the pharmacokinetics and interactions of the active drug ingredients or therapeutic moieties in the combination drug product are well known and the therapeutic activity of the combination drug product is generally recognized to reside in only one of the active drug ingredients or therapeutic moieties.

CRITICALLY ILL PATIENTS

30. Two comments questioned proposed § 320.2(d)(4) banning bioability testing using critically ill patients. The comments stated that it is conceivable that products intended for use in a vastly altered physiological setting, such as altered clearance rate, electrolyte imbalance, or hemodynamic changes, could be validly examined only in studies involving critically ill patients suffering from renal, respiratory, or cardiovascular insufficiency. One of these comments added that it is appreciated that the therapeutic support of the patient is paramount and studies in critically ill patients should be allowed only under very special situations where the patient's safety is uncompromised and the scientific goals warrant the study.

The Commissioner stated in the preamble to the proposed regulations that, in the cases cited in the comment, bioavailability studies may be conducted on suitable noncritically ill patients. He believes that studies on critically ill patients are inappropriate and contrary to the best medical interest of such individuals unless there is a potential benefit to the patient. He recognizes that concomitant bioavailability studies can be conducted using critically ill patients to allow for dosage titration and further dosage prediction. These studies offer a direct benefit to the patient because the study results can be used to customize the dosage regimen for the critically ill patient. For example, a bioavailability study with kanamycin in uremic patients would permit dosage adjustments based on renal creatinine clearance and serum creatinine levels. Therefore, the Commissioner is revising § 320.25(a)(3) of the final regulations to state that critically ill patients shall not be included in an in vivo bioavailability study unless the attending physician determines that there is a potential benefit to the patient. Pharmacokinetic studies in critically ill patients with an established formulation for the purpose of determining the effects of a disease mechanism on drug metabolism and drug action are in no way prohibited or hindered by these regulations.

SUBJECT VARIABILITY

31. One comment stated that the procedures used by the majority of investigators to determine bioavailability do not compare the physiological variables of subjects receiving test and reference materials, rather they compare mean values of a measured variable. The comment added that, although these investigators have measured the extent of absorption, they have not measured the rate of absorption in determining the bioavailability of a drug product. The comment stated that, if the proposed regulation is implemented, FDA must insist on a reevaluation of the submitted evidence of bioavailability for all marketed drug products and should not accept evaluations that have compared the average extent of absorption.

The Commissioner agrees that early bioavailability studies did not consider inter- and intra-subject variabilities. In the last 3 years, however, FDA in reviewing bioavailability data has considered subject variabilities. The FDA has always considered both the extent and rate of absorption in approving bioavailability studies. Thus, the data submitted within the last 3 years have been evaluated using the guidelines set forth in the bioavailability regulations. The Commissioner does not believe that failure of the early studies to consider subject variabilities is reason to reevaluate the early bioavailability studies unless there is evidence that the drug products included in such studies have a bioequivalence problem. The procedures that the Commissioner is establishing in Subpart C of Part 320 (see the June 20, 1975 proposed procedures for establishing a bioequivalence requirement and the final regulations published elsewhere in this issue of the FEDERAL REGISTER) are intended to provide a mechanism for reviewing the bioequivalence of marketed drug products and for establishing additional testing requirements for those drug products with bioequivalence problems.

SAMPLING TIME INTERVALS

32. Two comments regarding proposed § 320.2(d)(5) (iii) and (iv) stated that this section requires that sampling time intervals for both the test product and the reference material be similar; however, to obtain competent estimates of the rate and extent of absorption, sampling time intervals occasionally need not be the same. For example, in a study comparing an intravenous solution to a tablet, one may desire to take many blood samples shortly after injection of the intravenous solution whereas, because of the characteristics of absorption from a tablet, only a relatively few blood samples need be taken during the same time period. Clearly, patients should not be subjected to needless sampling of blood. These comments suggested that in proposed § 320.2(d)(5) (iii) and (iv) the language "* * * similar time intervals for both the test product and the reference material. Such samples shall be taken with * * *" be deleted. Another comment stated that the words "similar time intervals" in proposed § 320.2(d)(5) (iii) and (iv) should be changed to "identical time intervals" to assure true equivalence.

The Commissioner concludes from these comments that there is a misunderstanding regarding the intent of proposed § 320.2(d). This section is intended to provide general guidelines for the study of a multitude of drug products each of which could require a unique approach. For this reason, he rejects the comment that samples of body fluids should be collected at identical time intervals; such a requirement would not permit the variability needed in studying different products. To clarify these provisions, the Commissioner is revising § 320.26(c) and (d) of the final regulations to provide general guidelines for selection of sampling times. To allow flexibility in the selection of sampling times, he is deleting the phrase "similar time intervals for both the test poduct and the reference material." By way of example, § 320.26(c) of the final regulations states that, in a study comparing oral dosage forms, the blood sampling times should be identical. In a study comparing an intravenous dosage form and an oral dosage form, the blood sampling times should be those needed to describe both the distribution and elimination phase of the intravenous dosage form, and the absorptive and elimination phase of the oral dosage form. For other drug delivery systems, the sampling times should be based on valid scientific reasons.

33. One comment stated that, to assure some flexibility in the selection of urine sampling times, the phrase "unless some other approach is more appropriate for valid scientific reasons" should be inserted at the end of the last sentence in proposed § 320.2(d)(5)(iv).

The Commissioner agrees and is including the phrase suggested in the comment in § 320.26(d) of the final regulations.

34. Three comments objected, as being somewhat arbitrary, to the requirements in proposed § 320.2(d)(5)(iii) and (v) which stated that a drug product must be followed for three half-lives to study it for bioavailability purposes by plasma assay or acute pharmacological effect. The comments noted that three half-lives may not be sufficient in some cases. The duration of the study must instead be based upon the pharmacokinetics of the compound under discussion and suggested that a more reasonable statement might be to ask that the study be continued for a sufficient period to allow for the achievement of a valid bioavailability comparison between the test and reference material. The comments added that, if three half-lives is nonetheless to be a minimum standard, the appropriate portions of these paragraphs should be changed to read: "the total area under the time curve for a time period for at least three times the half-life or sufficiently longer for accurate determination of the individual terminal half-lives."

The Commissioner believes that the pharmacokinetic profile of most drug products can be determined by measuring the rate and extent of absorption for a period of three half-lives of the active drug ingredient, therapeutic moiety, or its metabolite(s) being measured. For some drug products, measurement must be made for a longer period, e.g., five half-lives, because the profile can be determined only by following the rate and extent of absorption for longer than three half-lives. Measurement for three half-lives is intended as a minimum requirement unless another approach is appropriate for valid scientific reasons. The Commissioner emphasizes the words "at least" in proposed § 320.2(d)(5)(iii) and (v), which read in part: "for a time period at least three times the half-life * * *." The Commissioner rejects the proposed alternative wording of the comment as adding nothing to the current language of § 320.26(c).

35. One comment suggested a revision of proposed § 320.2(d)(5)(iv) by changing the words "and extent of urinary excretion" to "and the total urinary excretion."

The Commissioner does not agree with this comment because "total urinary excretion" implies that the active drug ingredient, therapeutic moiety, or metabolite(s) being measured will be completely eliminated in the urine during the time frame in which urinary excretion is being studied. For many drug products, the pharmacokinetic profile of the drug product may be adequately determined before all of the active drug ingredient, therapeutic moiety, or metabolite(s) being measured is eliminated in the urine.

The Commissioner has revised the term "concentration-time curves" in § 320.26(d) of the final regulations to read "cumulative urinary excretion-time curves" because the concentration of the active drug ingredient, therapeutic moiety, or metabolite in the urine depends upon the fluid intake and renal function, thereby making comparison based on concentration unfeasible. Such concentration varies from subject to subject and from day to day in a crossover study.

DATA CORRELATION

36. One comment suggested that the word "correlation" in proposed § 320.2(d)(5)(vii) be changed to "cannonical correlation and/or partial correlation." The comment stated that the statistical procedures commonly used by investigators do not allow for a simple correlation.

The Commissioner does not accept this comment. The term "correlation" as used in proposed § 320.2(d)(5)(vii) (now § 320.28) is not intended to be applied in a statistical sense, but rather to express the concept of showing a cause-and-effect relationship between variables.

37. One comment objected to the statement in proposed § 320.2(d)(5)(vii) that correlation of bioavailability with acute pharmacological effects or clinical evidence of effectiveness may be required if needed to establish the clinical significance of special claims, e.g., in the case of a controlled release preparation. The comment stated that no reason is given for singling out controlled release preparations and none is apparent. The com-

ment added that for purposes of demonstrating bioavailability, data verifying claims of protracted availability of the active moiety in body fluids in vivo are sufficient.

This section was not intended to single out controlled release dosage forms but to emphasize the need for correlation of pharmacological effects with bioavailability data to support labeling claims. Bioavailability was purposely defined both in terms of rate and extent of absorption, because it can be shown with certain drugs that alterations in rate of absorption may impart significantly differences in pharmacological properties of a drug. In such cases, correlation studies with clinical data may be required for approval of a new dosage form that differs in rate but not extent of absorption. Controlled release preparations were selected as an example because it often can be shown that an increase or decrease in side effects coupled with an increased duration of action is associated with significant differences in the pharmacokinetic profile.

The Commissioner, on his own initiative, is amending § 320.28 of the final regulations to include the word "safety" in the phrase "clinical evidence of effectiveness may be required," because in many instances safety considerations are of prime concern.

SINGLE-DOSE AND MULTIPLE-DOSE STUDIES

38. One comment stated that, with respect to proposed § 320.2(d)(6) (now § 320.27), multiple-dose studies performed in the manner proposed are difficult to execute and do not contain sufficient experimental safeguards to assure that a valid estimate of bioavailability will result. Thus, no recognition is given to the usefulness of terminal plasma disappearance data or to estimates of bioavailability under nonsteady-state conditions. The complexities of multiple-dose comparisons are not readily amenable to detailed guidelines for their implementation. The comment suggested that proposed § 320.2(d)(6)(i)–(v) be deleted and the following be inserted in its place: "(6) In selected circumstances, it may be necesary for the test product and the reference material to be compared after repeated administration. The same considerations as in single-dose studies shall generally apply, (except that the method of administration, e.g., fasting and non-fasting, shall reflect the proposed labeling of the drug product) unless some other approach is more appropriate for valid scientific reasons."

The Commissioner agrees that multiple-dose studies are difficult to execute and that there is an obvious need for subject monitoring in such studies. There are, however, a number of circumstances where such studies are the optimal methods to demonstrate the bioavailability of a drug product. While it is not the intent of the Commissioner to constrain research on new methodology in this area, it is his opinion that some broad guidelines should be provided for such studies, particularly because many manufacturers have requested FDA's guidance in conducting such studies. On that basis, the more detailed version of the guidelines has been retained in § 320.27 of the final regulations and expanded in reply to a number of comments to this section.

39. One comment stated that proposed § 320.2(d)(5)(i) and (vi) and (6)(ii) should be amended to indicate that while single-dose crossover studies should have a drug elimination period, multiple-dose crossover studies should not have a drug elimination period and therefore should be performed under protocols of continuous administration. In support of this statement, the comment noted that once the "steady state" has been achieved by administration of the initial drug, the second drug given should, if equally bioavailable and given at the same dosage, maintain the same levels. If the level of bioavailability being measured either decreases or increases, the two drug formulations are not comparable. The changes in effect would be shown on the crossover with clearer results without a washout period than with such a period. On the other hand, a single-dose study does not achieve a constant level, hence any drug remaining in the test subject can alter the results on crossover. Therefore, single-dose crossover studies should specifically be required to utilize elimination periods unless, for some reason, such a period is not necessary.

The Commissioner agrees that a drug elimination period is not ordinarily required in a multiple-dose study, provided steady-state conditions are achieved. The Commissioner recognizes that, in studies involving drugs having a very long half-life, multiple-dose studies may be unfeasible and/or hazardous, particularly in normal volunteers, where the dosing interval is significantly shorter than the half-life of the drug. Section 320.26(b) of the final regulations states that a drug elimination period should be provided for in a single-dose crossover study. Section 320.27(b) states that a drug elimination period should be provided for in multiple-dose crossover studies if steady-state conditions are not achieved.

40. The Commissioner advises that the guidelines on the design of a single-dose or multiple-dose in vivo bioavailability study in §§ 320.26 and 320.27 of the final regulations are very basic guidelines. They are not intended to include all of the requirements necessary for designing and conducting a bioavailability study. The FDA is preparing detailed guidelines for bioavailability studies that will be available from the Bureau of Drugs, Division of Biopharmaceutics (HFD–520), 5600 Fishers Lane, Rockville, MD 20857. To clarify that the guidelines are not absolute requirements, the word "should" is substituted for "shall" in §§ 320.26 and 320.27 of the final regulations.

41. Proposed § 320.2(d)(5)(vi) stated that the drug elimination period in a single-dose crossover study should be at least five times the half-life of the therapeutic moiety or its metabolite or five times the half-time of decay of the acute pharmacological effect. The Commissioner believes that, because of the limitations of available technology, it may not be possible to monitor the drug elimination period for five half-lives in a single-dose study. Therefore, he is revising § 320.26(b)(2) of the final regulations to state that, unless some other approach is appropriate for valid scientific reasons, the drug elimination period in a single-dose crossover study should be either at least three times the half-life of the active drug ingredient or therapeutic moiety or its metabolite(s), measured in the blood or urine, or at least three times the half-life of decay of the acute pharmacological effect. The Commissioner believes that, with available technology, it is possible to monitor the drug elimination period in a multiple-dose crossover study for at least five half-lives. Therefore, § 320.27(b)(3) of the final regulations states that, if a drug elimination period is required in a multiple-dose study, unless some other approach is more appropriate for valid scientific reasons, the drug elimination period should be either at least five times the half-life of the active drug ingredient or therapeutic moiety, or its metabolite(s), measured in the blood or urine, or at least five times the half-life of decay of the acute pharmacological effect.

42. One comment objected to the statement in proposed § 320.2(d)(6)(i) that multiple-dose studies may be required to determine bioavailability where there is a difference in the rate of absorption but not in the extent of absorption. The comment noted that bioavailability is defined as both the rate and extent of absorption; at steady state, the mean plasma level (Cp mean) will be a function of the extent of absorption only. Where the difference in bioavailability lies with the rate of absorption, the single-dose study is more appropriate. The comment added that this would especially apply to controlled release preparations where the input rate has been deliverately altered. The single-dose study would be more appropriate in following the absorption rate to determine that the controlled release claim for the product was correct.

The Commissioner believes that occasionally there is a need to define maximum (Cmax) and minimum (Cmin) concentrations under steady-state conditions. Multiple-dose studies that define Cmax and Cmin blood concentrations are most appropriate when dealing with drugs possessing a narrow therapeutic ratio, drugs requiring careful patient titration, and controlled release dosage forms. In the case of controlled release dosage forms, it is not sufficient to demonstrate merely the slow release and absorption of the dosage form; both safety and effectiveness of the product must also be demonstrated. The latter requires sufficient proof of reproducibility in release rate; proof is best determined in multiple-dose studies. In addition there is the need to obtain sufficient pharmacokinetic data for purposes of labeling the controlled release dosage form.

43. Two other comments stated that among the instances requiring multiple-dose studies are those where there is excessive variability from subject to subject or where the concentration of the therapeutic moiety in the blood or urine, resulting from a single dose, is too low for accurate anlysis. These comments added that the two instances should be deleted since neither is a valid reason to require multiple-dose studies and accurate results can be achieved by increasing the patient population in the first instance or increasing the dose in single-dose studies in the second instance.

The Commissioner does not agree with these comments. Excessive subject variability and the existence of blood concentration too low for the analytical method may indeed be valid reasons for requiring multiple-dose studies. In many cases, increasing the dose administered may be both hazardous to the subject and not reflective of the absorption pattern of the drug product under question. If there is excessive variability from subject to subject, large numbers of subjects employing single-dose studies would be required to demonstrate bioavailability. In his opinion, such studies are technically unfeasible because of the difficulty of assuring adequate clinical monitoring.

44. Although no comments were received regarding proposed § 320.2(d)(6)(ii), the Commissioner has reviewed this provision and is modifying it to clarify that crossover studies are not required if the purpose of a multiple-dose study is to establish dose proportionality under a multiple-dose regimen or the pharmacokinetic profile of a new drug entity, new drug delivery system, or controlled release dosage form. As revised § 320.27(b)(2) of the final regulations reads: "A multiple-dose study is not required to be of crossover design if the study is to establish dose proportionality under a multiple-dose regimen or to establish the pharmacokinetic profile of a new drug product, a new drug delivery system, or a controlled release dosage form."

45. Although no comments were filed regarding proposed § 320.2(d)(6)(iii), the Commissioner is revising § 320.27(c) of the final regulations to provide for flexibility in protocol design by including the phrase "unless some other approach is more appropriate for valid scientific reasons." As revised, § 320.27(c) reads: "Whenever a multiple-dose study is conducted, unless some other approach is more appropriate for valid scientific reasons, sufficient doses of the test product and reference material should ordinarily be administered in accordance with the labeling to achieve steady-state conditions."

46. One comment regarding proposed § 320.2(d)(6)(iv) stated that the wording of the sentence "A more complete characterization * * * of the total area under the concentration curve" gives the impression that calculation of the area under the concentration curve is required. The comment noted that this is redundant because, if a statistical procedure shows that test and reference material do not differ in rate and extent variables, then there is no need to demonstrate that the areas under the curves of the two materials do not differ. The determination of the rate and extent of absorption is necessary to establish bioavailability, while determining the area under the curve is a necessary but not sufficient requirement for establishing bioavailability.

Proposed § 320.2(d)(6)(iv) encourages, but does not require, a more complete characterization of the blood level or urinary excretion rate during the absorption and elimination phases of a single-dose administered at steady state. The Commissioner encourages such complete characterization to permit estimation of the total area under the concentration-time curves and to obtain pharmacokinetic information, e.g., half-life, or blood clearance, that is essential in preparing adequate labeling for the drug product. The Commissioner has expanded § 320.27(d)(3) of the final regulations to clarify why complete characterization is encouraged.

47. One comment regarding proposed § 320.2(d)(6)(iv) stated that, while a protocol of frequent sampling would be a better estimate of the plasma profile, the area under the concentration-time curve for the dosing interval at steady state is proportional (assuming a linear system) to the fraction of the dose absorbed and thus also to the extent of availability, even when no postabsorptive or elimination phase is seen because of slow absorption relative to the dose interval.

The Commissioner agrees with this comment. These facts have been both kinetically predicted and experimentally demonstrated in the scientific literature. Therefore, the Commissioner is revising § 320.27(e)(2) of the final regulations by adding the following statement: "In a linear system, the area under the blood concentration-time curve during a dosing interval in a multiple-dose steady-state study is directly proportional to the fraction of the dose absorbed and is equal to the corresponding 'zero to infinity' area under the curve for a single-dose study. Therefore, when steady-state conditions are achieved, a comparison of blood concentrations during a dosing interval may be used to define the fraction of the active drug ingredient or therapeutic moiety absorbed." Section 320.27(e)(3) states that other methods based on valid scientific reasons should be used to determine the bioavailability of a drug product having dose-dependent kinetics (nonlinear system).

Analytical Methods

48. One comment stated that proposed § 320.2(d)(7) discusses the analytical method used in bioavailability studies to measure acute pharmacological effect or the concentration of the active drug ingredient, therapeutic moiety, or metabolite(s) in body fluids or excretory products. The section omits bioavailability studies conducted with radioactively labeled drugs. As a part of the analytical methodology, the comment suggested that studies conducted with radioactively labeled drugs be included.

In paragraph 14 above, the Commissioner discusses the use of isotopically labeled drugs in a bioavailability study and is amending the final regulations to provide for such use when approved by FDA. The Commissioner, however, concludes that it is unnecessary to amend § 320.29 in the final regulations to refer to the use of radioactively labeled drugs because this section is concerned with the sensitivity of, not the choice of, the analytical method.

49. One comment stated that proposed § 320.2(d)(9) (now § 320.23) contains no mechanism to satisfy the requirement that the bioavailability test shall be of sufficient sensitivity to discriminate between inequivalent products. The comment stated that the requirement implies that a product of known poor bioavailability must be compared against the reference material to determine whether the method can detect differences between the two products.

Statistical analysis of data is the mechanism for determining whether a bioavailability test is sufficiently sensitive to discriminate between inequivalent products. A variety of statistical techniques are available for this analysis, e.g., analysis of variance, student T test, chi square test, and Hottelings' T^2 test. The investigator has to choose from among those many statistical techniques one of sufficient sensitivity to detect differences in bioavailability that are not attributable to subject variability. The statement in proposed § 320.2(d)(9) was not intended to suggest that a product of known poor bioavailability is to be run against the reference material, and, as noted in paragraph 51 below, has been revised.

50. Two comments stated that proposed § 320.2(d)(9) does not distinguish bioavailability from bioequivalence testing. For example, the relationship of a new therapeutic pharmaceutical alternative with comparable labeling should be shown to have comparable rate and extent of absorption to the reference standard, e.g., marketed product. One of the comments added that the phrase "may be considered medically insignificant" appears to be vague. The comments proposed that § 320.2(d)(9) be revised to read: "For new products containing a new therapeutic moiety that has not been previously marketed and for new formulations, new dosage forms, or new salts or esters of an already marketed therapeutic moiety that are to be administered by an alternate route to those of the currently marketed drug products, the drug product shall be shown to be bioavailable by evidence of the rate and extent of absorption, as determined by comparison of measured parameters, e.g., concentrations of the drug in the plasma, urinary excretion rates, pharmacological effects, etc., to those of the reference material. In this case (where bioavailability only is determined) ordinarily the drug product will not be similar in rate and extent of absorption to that of the reference material. For

drug products undergoing testing to determine whether they meet bioequivalence requirements and for new formulations, new dosage forms, or new salts or esters of an already marketed therapeutic moiety that are to be administered by the same route as that of a currently marketed drug product, said drug product(s) shall be deemed to be bioequivalent if the rate and extent of absorption, as determined by measured parameters, e.g., concentrations of the drug in the plasma, urinary excretion rates, pharmacological effects, etc., have comparable location parameters, e.g., means, medians, etc., to those of the reference material, provided that the bioavailability test is sufficiently sensitive to discriminate between specified differences in formulations. A drug product may be equivalent to the reference material in the extent of absorption but not in its rate of absorption and yet may be considered to be bioequivalent because such differences in rate of absorption may be intentional or are not essential to the attainment of effective body drug concentrations on chronic usage."

Another comment recommended that proposed § 320.2(d)(9) be deleted entirely because it confuses the terms bioavailability and bioequivalence. Two other comments stated that the phrase "do not differ significantly" is vague. One of these comments recommended insertion of the word "statistically" before the words "differ significantly."

The Commissioner agrees that proposed § 320.2(d)(9) confuses the terms bioavailability and bioequivalence and that the phrases "do not differ significantly" and "may be considered medically insignificant" need to be clarified. The intent of this section is to provide guidance in evaluating data to determine the bioavailability of a new drug product containing a new therapeutic moiety, or a new dosage form or new salt or ester of an already marketed therapeutic moiety. Therefore, the Commissioner is revising § 320.23 of the final regulations. Under § 320.23 the in vivo bioavailability of a drug product is demonstrated if the product's rate and extent of absorption, as determined by comparison of measured parameters, e.g., concentrations of the active drug ingredient in the blood, urinary excretion rates, or pharmacological effects, do not indicate a significant difference from the reference material's rate and extent of absorption. Statistical techniques used shall be of sufficient sensitivity to detect differences in rate and extent of absorption that are not attributable to subject variability. A drug product that differs from the reference material in its rate of absorption, but not in its extent of absorption, may be considered to be bioavailable if the difference in the rate of absorption is intentional and appropriately reflected in the labeling, and/or not detrimental to the safety and effectiveness of the drug product.

51. One comment noted that proposed § 320.2(d)(9) states that significant differences in rate of absorption will be disregarded in determining bioavailability or bioequivalence if the difference is medically insignificant. The comment added that the principle thus recognized is equally applicable to the extent of absorption and recommended that the third sentence in proposed § 320.2(d)(9) be revised to read: "A drug product may be inequivalent to the reference material in the extent or rate of absorption and yet may be considered to be bioavailable or bioequivalent because such difference may be considered medically insignificant for the particular drug product." Two other comments added that while there are little, if any, data that identify those instances where one can make the judgment that differences in the rate of absorption will not be medically significant, there are data that document or strongly suggest that differences in the rate of absorption of glucocorticoids can result in therapeutic failures.

The Commissioner is of the opinion that a drug product's safety and effectiveness is dependent primarily on its ability to deliver a therapeutic quantity of the drug to the site of action and, thus, the extent of absorption, not the rate of absorption, will determine steady-state concentrations. The Commissioner advises, however, that the rate of absorption must be considered in determining bioavailability unless there are data available to support a determination that the rate of absorption is not essential to the safe and effective use of the drug product.

Submission of Protocols

52. One comment stated that proposed § 320.2(d)(8) (now § 320.30(a) and (b)) "recommends" the submission of proposed protcols for bioavailability studies for FDA review where, assumedly, the submission is not required under proposed § 320.2(e). The comment added that if a protocol is submitted as part of an IND under the provisions of § 312.1(a)(2) (21 CFR 312.1(a)(2)), FDA is supposed to respond within 30 days of receipt of the IND; however, proposed § 320.2(d)(8) contains no similar time provision for what is essentially a voluntary submission. To eliminate unnecessary delays and to encourage submissions under this provision, the comment suggested that the following language be added at the end of proposed § 320.2(d)(8): "Proposed protocols for bioavailability studies submitted under this provision will be reviewed and all substantive comments transmitted in writing to the sender within 30 days of receipt of the proposed protocol by the Food and Drug Administration. If no substantive response is received by the sender within this period, the proposed protocol is deemed approved by the Food and Drug Administration." This concept was supported by two other comments.

The Commissioner agrees that proposed protocols for bioavailability studies should be evaluated by FDA as soon as possible consistent with agency resources and priorities. As noted in the preamble to the proposal, FDA will attempt to evaluate these protocols within 30 days of their receipt. While every effort will be made to complete such evaluations as soon as possible, it is impractical and not in the public interest to encourage hasty or superficial evaluation by establishing a requirement that evaluations of protocols be completed within a specific time. The Commissioner advises that protocols submitted in an IND notice will not receive preferential treatment or be deemed approved if FDA has not responded within 30 days. The sponsor of an IND notice is required under § 312.1 to wait until 30 days after receipt of the notice by FDA before initiating clinical studies. Clinical studies are permitted to begin if FDA does not request the sponsor to withhold or to restrict such studies within 30 days. Important questions regarding safety issues are resolved within 30 days; however, a detailed review of the study protocol takes longer. Therefore, the sponsor cannot assume that a protocol for a bioavailability study submitted in an IND notice is deemed approved if he does not hear from FDA within 30 days.

Sample Source

53. Two comments recommended that proposed § 320.2(d)(9) be revised by adding a new sentence, after the first sentence, to read: "The lots tested for bioequivalence should be representative of a full size production lot."

The Commissioner agrees in part with this comment. Although the drug product tested must be identical to the product intended for marketing and be manufactured using the same equipment and under the same conditions as those used for full-scale production, it is not necessary that samples intended for bioavailability testing be taken from a full size production lot. The Commissioner is including in § 320.25(i)(2) of the final regulations a requirement that samples of the drug product to be tested be manufactured using the same equipment and under the same conditions as those used for full-scale production.

Informed Consent

54. Proposed § 320.2(e)(3) (now § 320.31(c)) requires written informed consent of any subject who participates in a bioavailability study conducted under an IND. Section 320.2(e)(2) (now § 320.31(b)) permits certain bioavailability studies involving marketed drug products to be conducted without submission of an IND, and thus subjects who participate in a study that is not conducted under an IND would not be required to give written informed consent. The Commissioner concludes that although protection of the public health does not require that every bioavailability study involving commercially available drug products be conducted under an IND, written informed consent shall be obtained from all subjects who participate in a bioavailability study. Such subjects will normally be healthy volunteers for whom no health benefit will be achieved by participation in the study. Nonetheless, the subjects are

placing themselves at risk, albeit small, by participation in the study. Protection of these subjects requires that they be adequately informed of this risk and give written consent to participate in the study. The Commissioner is revising § 320.31(d) of the final regulations to require written informed consent of all subjects who participate in a bioavailability study regardless of whether the study is conducted under an IND.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 501, 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 1049–1053 as amended, 1055 (21 U.S.C. 321(p), 351, 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. In Part 314, § 314.1 is amended in paragraph (c)(2) by adding a new subitem h to item 12 in Form FD-356H to read as follows:

§ 314.1 Applications.

* * * * *

(c) * * *

(2) * * *

FD-356H * * *

12. * * *

h. In vivo bioavailability data or information to permit waiver of this requirement in accordance with Subpart B of Part 320 (21 CFR Part 320, Subpart B).

* * * * *

2. In Part 320:

a. By adding new paragraph (a) to § 320.1 to read as follows:

§ 320.1 Definitions.

(a) "Bioavailability" means the rate and extent to which the active drug ingredient or therapeutic moiety is absorbed from a drug product and becomes available at the site of drug action.

* * * * *

b. By adding new Subpart B to read as follows:

Subpart B—Procedures for Determining the Bioavailability of Drug Products

Sec.

320.21 Requirements for submission of in vivo bioavailability data.
320.22 Criteria for waiver of evidence of in vivo bioavailability.
320.23 Basis for demonstrating bioavailability.
320.24 General approaches for determining bioavailability.
320.25 Guidelines for the conduct of an in vivo bioavailability study.
320.26 Guidelines on the design of a single-dose in vivo bioavailability study.
320.27 Guidelines on the design of a multiple-dose in vivo bioavailability study.
320.28 Correlation of bioavailability with an acute pharmacological effect or clinical evidence.
320.29 Analytical methods for an in vivo bioavailability study.
320.30 Inquiries regarding bioavailability requirements and review of protocols by the Food and Drug Administration.
320.31 Applicability of requirements regarding a "Notice of Claimed Investigational Exemption for a New Drug".

AUTHORITY: Secs. 201(p), 501, 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 1049–1053 as amended, 1055 (21 U.S.C. 320(p), 351, 352, 355, 371(a)), unless otherwise noted.

§ 320.21 Requirements for submission of in vivo bioavailability data.

(a) Any person submitting a full or abbreviated new drug application to the Food and Drug Administration after July 7, 1977, shall include in the application either:

(1) Evidence demonstrating the in vivo bioavailability of the drug product that is the subject of the application; or,

(2) Information to permit the Food and Drug Administration to waive demonstration of in vivo bioavailability.

(b) Any person submitting a supplemental application to the Food and Drug Administration after July 7, 1977, shall include in the supplemental application the evidence or information set forth in paragraph (a) of this section if the supplemental application proposes any of the following changes:

(1) A change in the manufacturing process, including a change in product formulation or dosage strength, beyond the variations provided for in the approved application.

(2) A change in the labeling to provide for a new indication for use of the drug product, if clinical studies are required to support the new indication for use.

(3) A change in the labeling to provide for a new dosage regimen or for an additional dosage regimen for a special patient population, e.g., infants, if clinical studies are required to support the new or additional dosage regimen.

(c) The Food and Drug Administration may approve a full or abbreviated new drug application, or a supplemental application proposing any of the changes set forth in paragraph (b) of this section, that does not contain evidence of in vivo bioavailability or information to permit waiver of the requirement for in vivo bioavailability data, if all of the following conditions are met:

(1) The application is under review by the Food and Drug Administration on July 7, 1977.

(2) The application is otherwise approvable.

(3) The applicant agrees to submit, within the time specified by the Food and Drug Administration, either:

(i) Evidence demonstrating the in vivo bioavailability of the drug product that is the subject of the application; or,

(ii) Information to permit the Food and Drug Administration to waive demonstration of in vivo bioavailability.

(d) Evidence demonstrating the in vivo bioavailability of a drug product shall be obtained using one of the approaches for determining bioavailability set forth in § 320.24.

(e) Information to permit the Food and Drug Administration to waive demonstration of in vivo bioavailability shall meet the criteria set forth in § 320.22.

(f) Any person holding an approved full or abbreviated new drug application shall submit to the Food and Drug Administration a supplemental application containing new evidence demonstrating the in vivo bioavailability of the drug product that is the subject of the application if notified by the Food and Drug Administration that:

(1) There are data demonstrating that the dosage regimen in the labeling is based on incorrect assumptions or facts regarding the pharmacokinetics of the drug product and following this dosage regimen could potentially result in subtherapeutic or toxic levels; or,

(2) There are data demonstrating significant intra-batch and batch-to-batch variability, e.g., plus or minus 25 percent, in the bioavailability of the drug product.

(g) The requirements of this section regarding the submission of evidence demonstrating in vivo bioavailability apply only to a full or abbreviated new drug application or a supplemental application for a finished dosage formulation.

§ 320.22 Criteria for waiver of evidence of in vivo bioavailability.

(a) Any person submitting a full or abbreviated new drug application, or a supplemental application proposing any of the changes set forth in § 320.21(b), may request the Food and Drug Administration to waive the requirement for the submission of evidence demonstrating the in vivo bioavailability of the drug product that is the subject of the application. A request for waiver shall be submitted with the application. The Food and Drug Administration shall waive the requirement for the submission of evidence of in vivo bioavailability if the drug product meets any of the provisions of paragraph (b), (c), or (d) of this section.

(b) For certain drug products the in vivo bioavailability of the drug product may be self evident or not necessary for the product to achieve any of its intended purposes. The Food and Drug Administration shall waive the requirement for the submission of evidence obtained in vivo demonstrating the bioavailability of the drug product if the product meets one of the following criteria:

(1) The drug product meets both of the following conditions:

(i) It is a solution intended solely for intravenous administration.

(ii) It contains an active drug ingredient or therapeutic moiety in the same solvent and concentration as an intravenous solution that is the subject of an approved full new drug application.

(2) The drug product is a topically applied preparation, e.g., a cream, ointment, or gel, intended for local therapeutic effect.

(3) The drug product is an oral dosage form that is not intended to be absorbed, e.g., an antacid or a radiopaque medium.

(4) The drug product meets both of the following conditions:

(i) It is administered by inhalation as a gas or vapor, e.g., a medicinal or an inhalation anesthetic.

(ii) It contains an active drug ingredient or therapeutic moiety in the same dosage form as a drug product that is the subject of an approved full new drug application.

(5) The drug product meets all of the following conditions:

(i) It is an oral solution, elixir, syrup, tincture, or similar other solubilized form.

(ii) It contains an active drug ingredient or therapeutic moiety in the same concentration as a drug product that is the subject of an approved full new drug application.

(iii) It contains no inactive ingredient that is known to significantly affect absorption of the active drug ingredient or therapeutic moiety.

(c) The Food and Drug Administration shall waive the requirement for the submission of evidence demonstrating the in vivo bioavailability of a solid oral dosage form (other than an enteric coated or controlled release dosage form) of a drug product determined to be effective for at least one indication in a Drug Efficacy Study Implementation notice or which is identical, related, or similar to such a drug product under § 310.6 of this chapter if the drug product is neither one of the following nor an identical, related, or similar drug product under § 310.6 of this chapter:

ANTI-ARRHYTHMICS

Procainamide hydrochloride capsules.
Quinidine polygalacturonate tablets.

ANTI-COAGULANTS

Bishydroxycoumarin tablets and capsules.
Warfarin, sodium and postassium tablets.

ANTI-CONVULSANTS

Ethosuximide capsules.
Ethotoin tablets.
Mephenytoin tablets.
Methsuximide capsules.
Paramethadione capsules.
Phenacemide tablets.
Phensuximide capsules and suspension.
Phenytoin suspension.
Primidone tablets and suspension.
Trimethadione capsules.

ANTI-HYPERTENSIVE/DIURETICS

Aiseroxylon tablets.
Bendroflumethiazide tablets.
Benzthiazide tablets.
Chlorothiazide tablets.
Deserpidine tablets.
Hydrochlorothiazide tablets.
Hydroflumethiazide tablets.
Methyclothiazide tablets.
Polythiazide tablets.
Quinethazone tablets.
Rauwolfia serpentina tablets.
Rescinnamine tablets.
Reserpine tablets.
Trichlormethiazide tablets.

ANTI-HYPERTENSIVE/DIURETICS IN COMBINATION

Chlorothiazide and reserpine tablets.
Hydralazine and reserpine tablets.
Hydralazine hydrochloride and hydrochlorothiazide tablets.
Hydrochlorothiazide and deserpidine tablets.
Hydrochlorothiazide and reserpine tablets.
Hydroflumethiazide and reserpine tablets.
Methyclothiazide and deserpidine tablets.
Reserpine, hydralazine hydrochloride and hydrochlorothiazide tablets.
Spironolactone and hydrochlorothiazide tablets.
Trichloromethiazide and reserpine tablets.

ANTI-INFECTIVES

Nitrofurantoin tablets and suspension.
Salicylazosulfapyridine tablets.
Sulfadiazine sodium bicarbonate suspension.
Sulfadiazine, sulfamethazine, and sulfamerazine (triple sulfa) tablets and suspension.
Sulfadiazine tablets.
Sulfadimethoxine tablets, drops, and suspension.
Sulfamerazine tablets.
Sulfamethoxypyridazine acetyl tablets and suspension.
Sulfaphenazole suspension.
Sulfapyridine tablets.
Sulfisomidine tablets.
Sulfisoxazole acetyl suspension.
Sulfisoxazole tablets.

ANTI-MALARIALS

Pyrimethamine tablets.

ANTI-NEOPLASTICS

Chlorambucil tablets.
Methotrexate tablets.
Triethylene melamine tablets.
Uracil mustard capsules.

ANTI-THYROID

Propylthiouracil tablets.

ANTI-TUBERCULAR

Aminosalicylic acid and isoniazid tablets.
Aminosalicylic acid powder, tablets, and resin.
Aminosalicylic calcium granules, tablets, and capsules.
Aminosalicylic potassium tablets, capsules, and powder.
Aminosalicylic sodium powder, tablets, and granules.
Benzoylpas calcium tablets and powder.
Para-aminosalicylate sodium and isoniazid tablets.
Phenylaminosalicylate powder and tablets.

BRONCHIAL DILATORS

Aminophylline tablets.
Dyphylline tablets.
Oxtriphylline tablets.
Theophylline sodium glycinate tablets.

CARBONIC ANHYDRASE INHIBITORS

Acetazolamide tablets.
Dichlorphenamide tablets.
Ethoxzolamide tablets.
Methazolamide tablets.

CARDIAC GLYCOSIDES

Acetyldigitoxin tablets.

CORTICOIDS

Betamethasone tablets.
Cortisone acetate tablets.
Dexamethasone tablets.
Fludrocortisone acetate tablets.
Fluprednisolone tablets.
Hydrocortisone acetate tablets and powder.
Hydrocortisone tablets.
Methylprednisolone tablets.
Paramethasone acetate tablets.
Prednisolone tablets.
Prednisone tablets.
Triamcinolone tablets.

ESTROGENS

Dienestrol tablets.
Diethylstilbestrol diphosphate tablets.
Diethylstilbestrol tablets.
Ethinyl estradiol tablets.

HYPOGLYCEMICS

Tolbutamide tablets.

MISCELLANEOUS

Imipramine hydrochloride tablets.
Isoproterenol sublingual tablets.
Methyltestosterone tablets.
Probenecid tablets.
Sodium sulfoxone tablets.

THYROID SUPPLEMENT

Liothyronine, sodium tablets.

TRANQUILIZERS

Chlordiazepoxide hydrochloride capsules.
Chlorpromazine tablets.
Fluphenazine hydrochloride tablets.
Perphenazine tablets.
Prochlorperazine tablets.
Promazine tablets.
Promethazine tablets.
Thioridazine tablets.
Trifluoperazine tablets.
Triflupromazine tablets.
Trimeprazine tablets.

VITAMIN K

Menadione tablets.
Phytonadione tablets.

(d) For certain drug products bioavailability may be demonstrated by evidence obtained in vitro in lieu of in vivo data. The Food and Drug Administration shall waive the requirement for the submission of evidence obtained in vivo demonstrating the bioavailability of the drug product if the drug product meets one of the following criteria:

(1) The drug product is subject to a bioequivalence requirement established by the Food and Drug Administration under Subpart C of this Part that specifies only an in vitro testing requirement.

(2) The drug product is in the same dosage form, but in a different strength, and is proportionally similar in its active and inactive ingredients to another drug product made by the same manufacturer and the following conditions are met:

(i) The bioavailability of this other drug product has been demonstrated.

(ii) Both drug products meet an appropriate in vitro test approved by the Food and Drug Administration.

(iii) The applicant submits evidence showing that both drug products are proportionally similar in their active and inactive ingredients.

(3) The drug product is, on the basis of scientific evidence submitted in the application, shown to meet an in vitro test that assures bioavailability, i.e., an in vitro test that has been correlated with in vivo data.

(4) The drug product is a reformulated product that is identical, except for color, flavor, or preservative, to another drug product made by the same manufacturer and both of the following conditions are met:

(i) The bioavailability of the other product has been demonstrated.

(ii) Both drug products meet an appropriate in vitro test approved by the Food and Drug Administration.

(5) The drug product contains the same active drug ingredient or therapeutic moiety and is in the same strength and dosage form as a drug product that is the subject of an approved full or abbreviated new drug application, and both drug products meet an appropriate in vitro test that has been approved by the Food and Drug Administration.

(e) The Food and Drug Administration, for good cause, may defer or waive a requirement for the submission of evidence of in vivo bioavailability if deferral

or waiver is compatible with the protection of the public health.

§ 320.23 Basis for demonstrating bioavailability.

(a) The in vivo bioavailability of a drug product is demonstrated if the product's rate and extent of absorption, as determined by comparison of measured parameters, e.g., concentration of the active drug ingredient in the blood, urinary excretion rates, or pharmacological effects, do not indicate a significant difference from the reference material's rate and extent of absorption.

(b) Statistical techniques used shall be of sufficient sensitivity to detect differences in rate and extent of absorption that are not attributable to subject variability.

(c) A drug product that differs from the reference material in its rate of absorption, but not in its extent of absorption, may be considered to be bioavailable if:

(1) The difference in the rate of absorption is intentional and appropriately reflected in the labeling; and/or

(2) The rate of absorption is not detrimental to the safety and effectiveness of the drug product.

§ 320.24 General approaches for determining bioavailability.

(a) Bioavailability is usually determined by measurement of:

(1) The concentration of the active drug ingredient or therapeutic moiety, or its metabolite(s), in biological fluids as a function of time; or

(2) The urinary excretion of the therapeutic moiety or its metabolite(s) as a function of time; or

(3) An appropriate acute pharmacological effect.

(b) Bioavailability may be determined by several direct or indirect in vivo methods, generally involving testing in humans. The selection of the method depends upon the purpose of the study, the analytical method available, and the nature of the drug product. These limitations affect the degree to which precise pharmacokinetic studies can be applied and, in some cases, necessitate the use of other methods. Bioavailability testing shall be conducted using the most accurate, sensitive, and reproducible approach available among those set forth in paragraph (c) of this section.

(c) The following in vivo approaches, in descending order of accuracy, sensitivity, and reproducibility, are acceptable for determining the bioavailability of a drug product.

(1) In vivo testing in humans in which the concentration of the active drug ingredient or therapeutic moiety or its metabolite(s), in whole blood, plasma, serum, or other appropriate biological fluid is measured as a function of time, or in which the urinary excretion of the therapeutic moiety, or its metabolite(s), is measured as a function of time. This approach is particularly applicable to dosage forms intended to deliver the active drug ingredient or therapeutic moiety, or to the blood stream for systemic distribution within the body, i.e., injectable drugs, most oral dosage forms, most suppositories, certain drugs administered by inhalation, and some drugs administered by local application to mucous membranes.

(2) In vivo testing in humans in which an appropriate acute pharmacological effect of the active drug ingredient or therapeutic moiety, or metabolite(s), is measured as a function of time if such effect can be measured with sufficient accuracy, sensitivity, and reproducibility. This approach is applicable when appropriate methods are not available for measurement of the concentration of the active drug ingredient or therapeutic moiety, or its metabolite(s), in biological fluids or excretory products but a method is available for the measurement of an appropriate acute pharmacological effect. This approach is applicable to the same dosage forms listed in paragraph (c)(1) of this section.

(3) Well-controlled clinical trials in humans that establish the safety and effectiveness of the drug product. This approach is the least accurate, sensitive, and reproducible of the general approaches for determining in vivo bioavailability in humans. For dosage forms intended to deliver the active drug ingredient or therapeutic moiety to the bloodstream for systemic distribution within the body, this approach shall be considered as providing a sufficiently accurate estimate of in vivo bioavailability only when analytical methods are not available to permit use of one of the approaches outlined in paragraph (c) (1) and (2) of this section. This approach shall also be considered as sufficiently accurate for determining the bioavailability of dosage forms intended to deliver the therapeutic moiety locally, e.g., topical preparations for the skin, eye, ear, mucous membranes; oral dosage forms not intended to be absorbed, e.g., an antacid or a radiopaque medium; and bronchodilators administered by inhalation if the onset and duration of pharmacological activity are defined.

(4) Any other in vivo approach approved by the Food and Drug Administration. This provision is intended for special situations and to include those circumstances where the in vivo bioavailability of a drug product might be determined in a suitable animal model rather than in humans or by using a radioactive or nonradioactive isotopically labeled drug product.

§ 320.25 Guidelines for the conduct of an in vivo bioavailability study.

(a) *Guiding principles.* (1) The basic principle in an in vivo bioavailability study is that no unnecessary human research should be done.

(2) An in vivo bioavailability study shall not be conducted in humans if an appropriate animal model exists and correlation of results in animals and humans has been demonstrated. If an appropriate animal model does not exist, however, an in vivo bioavailability study shall ordinarily be done in normal adults under standardized conditions.

(3) In some situations, an in vivo bioavailability study in humans may preferably and more properly be done in suitable patients. Critically ill patients shall not be included in an in vivo bioavailability study unless the attending physician determines that there is a potential benefit to the patient.

(b) *Basic design.* The basic design of an in vivo bioavailability study is determined by the following:

(1) The scientific questions to be answered.

(2) The nature of the reference material and the dosage form to be tested.

(3) The availability of analytical methods.

(4) Benefit-risk considerations in regard to testing in humans.

(c) *Comparison to a reference material.* In vivo bioavailability testing of a drug product shall be in comparison to an appropriate reference material unless some other approach is more appropriate for valid scientific reasons.

(d) *Previously unmarketed active drug ingredients or therapeutic moieties.* (1) The purpose of an in vivo bioavailability study involving a drug product containing an active drug ingredient or therapeutic moiety that has not been approved for marketing is to determine:

(i) The bioavailability of the formulation proposed for marketing; and

(ii) The essential pharmacokinetic characteristics of the active drug ingredient or therapeutic moiety, such as the rate of absorption, the extent of absorption, the half-life of the therapeutic moiety in vivo, and the rate of excretion and/or metabolism. Dose proportionality of the active drug ingredient or the therapeutic moiety needs to be established after single-dose administration and in certain instances after multiple-dose administration. This characterization is a necessary part of the investigation of the drug to support drug labeling.

(2) The reference material in such a bioavailability study should be a solution or suspension containing the same quantity of the active drug ingredient or therapeutic moiety as the formulation proposed for marketing.

(3) The reference material should be administered by the same route as the formulation proposed for marketing unless an alternative or additional route is necessary to answer the scientific question under study. For example, in the case of an active drug ingredient or therapeutic moiety that is poorly absorbed after oral administration, it may be necessary to compare the oral dosage form proposed for marketing with the active drug ingredient or therapeutic moiety administered in solution both orally and intravenously.

(e) *New formulations of active drug ingredients or therapeutic moieties approved for marketing.* (1) The purpose of an in vivo bioavailability study involving a drug product that is a new formulation, a new dosage form, or a new salt or ester of an active drug ingredient or therapeutic moiety that has been approved for marketing is to:

(i) Determine the bioavailability of the new formulation, new dosage form, or new salt or ester relative to an appropriate reference material; and

(ii) Define the pharmacokinetic parameters of the new formulation, new dosage form, or new salt or ester to establish dosage recommendation.

(2) The selection of the reference material(s) in such a bioavailability study depends upon the scientific questions to be answered, the data needed to establish comparability to a currently marketed drug product, and the data needed to establish dosage recommendations.

(3) The reference material should be taken from a current batch of a drug product that is the subject of an approved new drug application and that contains the same active drug ingredient or therapeutic moiety, if the new formulation, new dosage form, or new salt or ester is intended to be comparable to or to meet any comparative labeling claims made in relation to the drug product that is the subject of an approved new drug application.

(f) *Controlled release formulations.* (1) The purpose of an in vivo bioavailability study involving a drug product for which a controlled release claim is made is to determine if all of the following conditions are met:

(i) The drug product meets the controlled release claims made for it.

(ii) The bioavailability profile established for the drug product rules out the occurrence of any dose dumping.

(iii) The drug product's steady-state performance is equivalent to a currently marketed noncontrolled release or controlled release drug product that contains the same active drug ingredient or therapeutic moiety and that is subject to an approved full new drug application.

(iv) The drug product's formulation provides consistent pharmacokinetic performance between individual dosage units.

(2) The reference material(s) for such a bioavailability study shall be chosen to permit an appropriate scientific evaluation of the controlled release claims made for the drug product. The reference material shall be one of the following or any combination thereof:

(i) A solution or suspension of the active drug ingredient or therapeutic moiety.

(ii) A currently marketed noncontrolled release drug product containing the same active drug ingredient or therapeutic moiety and administered according to the dosage recommendations in the labeling of the noncontrolled release drug product.

(iii) A currently marketed controlled release drug product subject to an approved full new drug application containing the same active drug ingredient or therapeutic moiety and administered according to the dosage recommendations in the labeling proposed for the controlled release drug product.

(iv) A reference material other than one set forth in paragraph (f)(2)(i), (ii) or (iii) of this section that is appropriate for valid scientific reasons.

(g) *Combination drug products.* (1) Generally, the purpose of an in vivo bioavailability study involving a combination drug product is to determine if the rate and extent of absorption of each active drug ingredient or therapeutic moiety in the combination drug product is equivalent to the rate and extent of absorption of each active drug ingredient or therapeutic moiety administered concurrently in separate single-ingredient preparations.

(2) The reference material in such a bioavailability study should be two or more currently marketed, single-ingredient drug products each of which contains one of the active drug ingredients or therapeutic moieties in the combination drug product. The Food and Drug Administration may, for valid scientific reasons, specify that the reference material shall be a combination drug product that is the subject of an approved new drug application.

(3) The Food and Drug Administration may permit a bioavailability study involving a combination drug product to determine the rate and extent of absorption of selected, but not all, active drug ingredients or therapeutic moieties in the combination drug product. The Food and Drug Administration may permit this determination if the pharmacokinetics and the interactions of the active drug ingredients or therapeutic moieties in the combination drug product are well known and the therapeutic activity of the combination drug product is generally recognized to reside in only one of the active drug ingredients or therapeutic moieties, e.g., ampicillin in an ampicillin-probenecid combination drug product.

(h) *Use of a placebo as the reference material.* Where appropriate or where necessary to demonstrate the sensitivity of the test, the reference material in a bioavailability study may be a placebo if:

(1) The study measures the therapeutic or acute pharmacological effect of the active drug ingredient or therapeutic moiety; or

(2) The study is a clinical trial to establish the safety and effectiveness of the drug product.

(i) *Standards for test drug product and reference material.* (1) Both the drug product to be tested and the reference material, if it is another drug product, shall be shown to meet all compendial or other applicable standards of identity, strength, quality, and purity, including potency and, where applicable, content uniformity, disintegration times, and dissolution rates.

(2) Samples of the drug product to be tested shall be manufactured using the same equipment and under the same conditions as those used for full-scale production.

§ 320.26 Guidelines on the design of a single-dose in vivo bioavailability study.

(a) *Basic principles.* (1) An in vivo bioavailability study should be a single-dose comparison of the drug product to be tested and the appropriate reference material conducted in normal adults.

(2) The test product and the reference material should be administered to subjects in the fasting state, unless some other approach is more appropriate for valid scientific reasons.

(b) *Study design.* (1) A single-dose study should be crossover in design, unless a parallel design or other design is more appropriate for valid scientific reasons, and should provide for a drug elimination period.

(2) Unless some other approach is appropriate for valid scientific reasons, the drug elimination period should be either:

(i) At least three times the half-life of the active drug ingredient or therapeutic moiety, or its metabolite(s), measured in the blood or urine; or

(ii) At least three times the half-life of decay of the acute pharmacological effect.

(c) *Collection of blood samples.* (1) When comparison of the test product and the reference material is to be based on blood concentration time curves, unless some other approach is more appropriate for valid scientific reasons, blood samples should be taken with sufficient frequency to permit an estimate of both:

(i) The peak concentration in the blood of the active drug ingredient or therapeutic moiety, or its metabolite(s), measured; and

(ii) The total area under the curve for a time period at least three times the half-life of the active drug ingredient or therapeutic moiety, or its metabolite(s), measured.

(2) In a study comparing oral dosage forms, the sampling times should be identical.

(3) In a study comparing an intravenous dosage form and an oral dosage form, the sampling times should be those needed to describe both:

(i) The distribution and elimination phase of the intravenous dosage form; and

(ii) The absorption and elimination phase of the oral dosage form.

(4) In a study comparing drug delivery systems other than oral or intravenous dosage forms with an appropriate reference standard, the sampling times should be based on valid scientific reasons.

(d) *Collection of urine samples.* When comparison of the test product and the reference material is to be based on cumulative urinary excretion-time curves, unless some other approach is more appropriate for valid scientific reasons, samples of the urine should be collected with sufficient frequency to permit an estimate of the rate and extent of urinary excretion of the active drug ingredient or therapeutic moiety, or its metabolite(s), measured.

(e) *Measurement of an acute pharmacological effect.* (1) When comparison of the test product and the reference material is to be based on acute pharmacological effect-time curves, measurements of this effect should be made with sufficient frequency to permit a reasonable estimate of the total area under the curve for a time period at least three times the half-life of decay of the pharmacological effect, unless some other approach is more appropriate for valid scientific reasons.

(2) The use of an acute pharmacological effect to determine bioavailability may further require demonstration of dose-related response. In such a case, bioavailability may be determined by comparison of the dose-response curves as well as the total area under the acute pharmacological effect-time curves for any given dose.

§ 320.27 Guidelines on the design of a multiple-dose in vivo bioavailability study.

(a) *Basic principles.* (1) In selected circumstances it may be necessary for the test product and the reference material to be compared after repeated administration to determine steady-state levels of the active drug ingredient or therapeutic moiety in the body.

(2) The test product and the reference material should be administered to subjects in the fasting or nonfasting state, depending upon the conditions reflected in the proposed labeling of the test product.

(3) A multiple-dose study may be required to determine the bioavailability of a drug product in the following circumstances:

(i) There is a difference in the rate of absorption but not in the extent of absorption.

(ii) There is excessive variability in bioavailability from subject to subject.

(iii) The concentration of the active drug ingredient or therapeutic moiety, or its metabolite(s), in the blood resulting from a single dose is too low for accurate determination by the analytical method.

(iv) The drug product is a controlled release dosage form.

(b) *Study design.* (1) A multiple-dose study should be crossover in design, unless a parallel design or other design is more appropriate for valid scientific reasons, and should provide for a drug elimination period if steady-state conditions are not achieved.

(2) A multiple-dose study is not required to be of crossover design if the study is to establish dose proportionality under a multiple-dose regimen or to establish the pharmacokinetic profile of a new drug product, a new drug delivery system, or a controlled release dosage form.

(3) If a drug elimination period is required, unless some other approach is more appropriate for valid scientific reasons, the drug elimination period should be either:

(i) At least five times the half-life of the active drug ingredient or therapeutic moiety, or its metabolite(s), measured in the blood or urine; or

(ii) At least five times the half-life of decay of the acute pharmacological effect.

(c) *Achievement of steady-state conditions.* Whenever a multiple-dose study is conducted, unless some other approach is more appropriate for valid scientific reasons, sufficient doses of the test product and reference material should be administered in accordance with the labeling to achieve steady-state conditions.

(d) *Collection of blood or urine samples.* (1) Whenever comparison of the test product and the reference material is to be based on blood concentration-time curves at steady-state, sufficient samples of blood should be taken to define adequately the maximum (Cmax) and minimum (Cmin) blood concentrations on 2 or more consecutive days to establish that steady-state conditions are achieved.

(2) Whenever comparison of the test product and the reference material is to be based on cumulative urinary excretion-time curves at steady-state, sufficient samples of urine should be taken to define the rate and extent of urinary excretion on 2 or more consecutive days to establish that steady-state conditions are achieved.

(3) A more complete characterization of the blood concentration or urinary excretion rate during the absorption and elimination phases of a single dose administered at steady-state is encouraged to permit estimation of the total area under concentration-time curves or cumulative urinary excretion-time curves and to obtain pharmacokinetic information, e.g., half-life or blood clearance, that is essential in preparing adequate labeling for the drug product.

(e) *Steady-state parameters.* (1) In certain instances, e.g., in a study involving a new drug entity, blood clearances at steady-state obtained in a multiple-dose study should be compared to blood clearances obtained in a single-dose study to support adequate dosage recommendations.

(2) In a linear system, the area under the blood concentration-time curve during a dosing interval in a multiple-dose steady-state study is directly proportional to the fraction of the dose absorbed and is equal to the corresponding "zero to infinity" area under the curve for a single-dose study. Therefore, when steady-state conditions are achieved, a comparison of blood concentrations during a dosing interval may be used to define the fraction of the active drug ingredient or therapeutic moiety absorbed.

(3) Other methods based on valid scientific reasons should be used to determine the bioavailability of a drug product having dose-dependent kinetics (nonlinear system).

(f) *Measurement of an acute pharmacological effect.* When comparison of the test product and the reference material is to be based on acute pharmacological effect-time curves, measurements of this effect should be made with sufficient frequency to demonstrate a maximum effect and a lack of significant difference between the test product and the reference material.

§ 320.28 Correlation of bioavailability with an acute pharmacological effect or clinical evidence.

Correlation of in vivo bioavailability data with an acute pharmacological effect or clinical evidence of safety and effectiveness may be required if needed to establish the clinical significance of a special claim, e.g., in the case of a controlled release preparation.

§ 320.29 Analytical methods for an in vivo bioavailability study.

(a) The analytical method used in an in vivo bioavailability study to measure the concentration of the active drug ingredient or therapeutic moiety, or its metabolite(s), in body fluids or excretory products, or the method used to measure an acute pharmacological effect shall be demonstrated to be accurate and of sufficient sensitivity to measure, with appropriate precision, the actual concentration of the active drug ingredient or therapeutic moiety, or its metabolite(s), achieved in the body.

(b) When the analytical method is not sensitive enough to measure accurately the concentration of the active drug ingredient or therapeutic moiety, or its metabolite(s), in body fluids or excretory products produced by a single dose of the test product, two or more single doses may be given together to produce higher concentration if the requirements of § 320.31 are met.

§ 320.30 Inquiries regarding bioavailability requirements and review of protocols by the Food and Drug Administration.

(a) The Commissioner of Food and Drugs strongly recommends that, to avoid the conduct of an improper study and unnecessary human research, any person planning to conduct a bioavailability study submit the proposed protocol for the study to the Food and Drug Administration for review prior to the initiation of the study.

(b) The Food and Drug Administration shall review a proposed protocol for a bioavailability study and determine if all of the following conditions are met:

(1) The design of the proposed bioavailability study is appropriate.

(2) The reference material to be used in the bioavailability study is appropriate.

(3) The proposed chemical and statistical analytical methods are adequate.

(c) General inquiries relating to in vivo bioavailability requirements and methodology shall be submitted to the Food and Drug Administration, Bureau of Drugs, Division of Biopharmaceutics (HFD-520), 5600 Fishers Lane, Rockville, MD 20857.

§ 320.31 Applicability of requirements regarding a "Notice of Claimed Investigational Exemption for a New Drug."

(a) Any person planning to conduct an in vivo bioavailability study in humans shall submit a "Notice of Claimed Investigational Exemption for a New Drug" if either:

(1) The test product contains a new chemical entity that is not the subject of an approved new drug application; or

(2) The study involves a radioactively labeled drug product.

(b) Any person planning to conduct a bioavailability study in humans using a currently commercially available drug product that is the subject of an ap-

proved new drug application, or is identical, similar, or related to such a drug product shall submit an IND if the study is one of the following:

(1) A single-dose study in normal subjects or patients where the dose exceeds that specified in the labeling of the drug product that is the subject of an approved new drug application.

(2) A multiple-dose study in patients where the dose exceeds that specified in the labeling of the drug product that is the subject of an approved new drug application.

(3) A multiple-dose study in normal subjects whether or not the dose exceeds that specified in the labeling of the drug product that is the subject of an approved new drug application.

(c) The provisions of § 312.1 of this chapter are applicable to any bioavailability study conducted under a "Notice of Claimed Investigational Exemption for a New Drug."

(d) The consent of all human subjects (or their representatives) who participate in a bioavailability study (regardless of whether the study is conducted under a "Notice of Claimed Investigational Exemption for a New Drug") shall be obtained in writing under § 310.102 of this chapter.

Effective date: This regulation shall be effective July 7, 1977.

(Secs. 201(p), 501, 502, 505, 701(a), 52 Stat. 1041–1042 as amended, 1049–1053 as amended, 1055 (21 U.S.C. 321(p), 351, 352, 355, 371(a)))

Dated: December 30, 1976.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-569 Filed 1-6-77;8:45 am]

federal register

FRIDAY, JANUARY 7, 1977

PART IV



DEPARTMENT OF LABOR

Office of the Secretary

■

MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER PROGRAMS

Miscellaneous Amendments

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Migrant and Other Seasonally Employed Farmworkers Programs

MISCELLANEOUS AMENDMENTS

On Tuesday, October 19, 1976, the Department of Labor published in the FEDERAL REGISTER (41 FR 46125) proposed revisions to the regulations under the Comprehensive Employment and Training Act at 29 CFR Parts 94 and 97. The Department invited interested persons to submit comments on the proposed regulations until November 17, 1976.

Several comments were received. The Department studied these comments carefully, and established an evaluation procedure to allow consideration of each comment on its own merits and in relation to other comments received on the same or similar subjects.

This evaluation procedure has resulted in a decision to amend the current regulations for section 303 in certain respects.

The following significant changes have been made in response to the comments received on the October 19, 1976, proposed rulemaking:

1. In § 97.203 *Definitions*, in "Farmwork," 0761 of the Standard Industrialization Classification (SIC) Code definitions is removed as an exclusion so as not to prohibit provision of services to individuals who work for crew leaders. Provision of services to crew leaders, as such, is excluded under the definition of "Seasonal Farmworker."

2. In § 97.215 *Review of Funding Requests*, in paragraphs (a)(2)(F)(1) and (a)(2)(F)(2), language is added to make experience criteria for 303 grantees and for other applicants consistent.

3. In § 97.255 a new paragraph (h) is added which makes clear that section 303 sponsors are permitted to use grant funds to join associations which serve the professional needs of section 303 program operators, and foster the exchange of technical employment and training information among such professionals. It also makes clear that Federal funds shall not be used for lobbying or political purposes. In response to comments received on the proposed amendment published August 24, 1976, the requirement that sponsors receive written authorization from the Secretary before joining an approved association was deleted. Since an association must be approved by the Secretary and announced, it was felt that to require additional written approval was duplication of effort.

4. In § 97.262 *Basic personnel standards for grantees and subgrantees*, a new paragraph (i) entitled "Staff complaint procedures" is added which requires sponsors to establish as part of their written personnel policies a procedure for resolving staff personnel complaints.

In response to comments received, the subparagraph allowing staff members who have exhausted their employer's administrative procedure to initiate procedures under § 97.291(b) has been deleted.

5. In § 97.232 *Eligibility for participation in Section 303 programs*, paragraphs (a)(1) and (a)(2) have been revised to clarify that farmworkers who supplement their income by working in food processing should not be disqualified. The intent of this section has never been to qualify workers exclusively employed in food processing industries.

6. In § 97.271 *Procurement Standards*, paragraph (d) is amended to eliminate dollar limitations and simply refer to definition of nonexpendable property as spelled out in the Property Handbook for MA Contractors.

7. In addition, several editorial, clarifying, and interpretative changes have been made. The more significant changes are as follows:

In § 97.203 *Definitions*, a definition for "Supplemental Funds" is added.

In § 97.204 *Allocation of funds*, language is revised to clarify that the hold harmless amount does not include supplemental funds.

In § 97.213 *Content and Description of Funding Request*, in paragraph (b)(3)(i)(C), a new item (10) is added for description of monitoring and self-evaluation system.

In § 97.233 *Types of program activities available*, language is added to paragraph (c)(2)(ii) to require prior approval of the Secretary for use of designs other than the 50 percent method for OJT.

Section 97.266 *Termination of a grant*, has been revised by deleting paragraph (b) of the proposed regulation, and putting it in a new section 97.267, *Suspension and debarment*. This new section provides that the Secretary may suspend a grantee from being considered for section 303 funds when there is adequate evidence of illegal use of program funds and provides that DOL Procurement Regulations will be followed if suspension or debarment is proposed.

Several comments were received on § 97.213(b)(2)(iii) and § 97.251(a)(1) and (2), the accounting certification process. The Department will continue to evaluate these comments and may propose changes in the accounting certification process at a later date.

A short explanatory statement was provided in the proposal of October 19, 1976, to describe the substantive amendments to the July 9, 1975 regulations. A description of the amendments, which are adopted herein, for the Fiscal Year 1977 regulations are repeated for the reader's convenience.

In § 97.203 *Definitions*, the following changes are made:

The definition of "Allocation" has been changed to clarify that it refers to the amount of funds calculated to be used as planning estimates for section 303 programs.

The definition of "manpower services" has been changed to eliminate the services of outreach, intake and assessment, and transportation, as specified in § 97.233.

The definition of "supportive services" has been changed to include transportation.

Section 97.212 has been revised to require the submission of the revised Preapplication for Federal Assistance Form (SF 424).

Section 97.213(b)(3)(i)(C)(8) has been revised to give examples of the types of items which may be submitted as evidence of past experience.

Paragraph (b)(4) contains three new assurances (xiv), (xv), and (xvi).

Section 97.214 *Submission of Funding Request*, (c)(1), language has been changed to clarify that copies of the Funding Request shall be submitted to appropriate State and/or area clearinghouses. Language has been added to require applicants to indicate in their Funding Request that the procedures of § 97.214 have been followed:

In paragraph (a)(2)(E), § 97.215 *Review of Funding Requests*, language has been loosened to provide for the higher rating to be awarded to applicants which would operate programs incorporating services at less than or no cost to section 303.

A new paragraph, § 97.215(b)(4) has been added which allows the Secretary to not select an applicant if there is evidence of substantial mismanagement of government funds.

In § 97.216(a)(2) time limitation is added to clarify that the Secretary will notify clearinghouses that submit comments on an application of the selection within seven working days of selection.

In paragraph (b) language has been clarified to allow the Secretary to invite one or more organizations to submit a proposal for a State or area.

In paragraph (d) of § 97.217 *Negotiation of final grant*, a new provision has been added to allow the Secretary to negotiate with any organization in the event that negotiations did not result in any acceptable negotiated grant for a section 303 program in a State or area.

Sections 97.220 and 97.221 *Modifications of Grant Agreement* and *Modification of Comprehensive Manpower Plan* have been combined as § 97.220 and completely revised. The following is a summary of the changes: (1) Modifications of grant agreement and major plan modifications are combined.

(2) A narrative modification is included in the overall definition of major modification.

(3) Language is added restricting modifications being initiated solely to adjust planned performance to meet actual performance.

(4) Language is added to clarify for which items prior approval of the Secretary is required.

(5) Paragraph (b)(3) requires that the revised signature sheet shall be used on all modifications requiring prior approval by the Secretary, which would

have an additional block to show the type of modification.

(6) In paragraph (c) minor plan and narrative modifications are combined.

In paragraph (a)(c) of § 97.232 *Eligibility for participation in section 303 programs*, the language regarding participation of aliens has been revised.

A new paragraph (e) has been added which prohibits sponsors from providing services to persons violating the terms of the Farm Labor Contractor Registration Act of 1963, as amended.

In § 97.233 *Types of program activities available* paragraph (c)(iii) has been clarified to indicate that allowances and benefits shall be provided as specified in § 97.256.

Time limitation is removed from § 97.233 because it is covered under § 97.256.

In § 97.233(c)(2)(ii), language has been added to indicate that use of a formula which incorporates the trainee's wage as a factor and fixed unit cost contracting are acceptable methods of reimbursement to private-for-profit employers for extraordinary on-the-job training costs, as long as the reimbursement does not exceed 50 percent of the trainee's entry level wage.

The paragraph in § 97.233 prohibiting direct subsidation of wages for participants placed with private-for-profit employers has been separated and renumbered as (iii).

Section 97.233(e) has been renumbered as (c)(3) and has been revised to further clarify appropriate work experience activities. In addition, a new paragraph has been added regarding periodic review of each work experience participant.

A new § 97.233(c)(3)(viii)(A)(3) has been added to include for participants in Federally funded or assisted construction projects, the prevailing rate established by the Secretary in accordance with the Davis-Bacon Act, when such rates are required by the Federal statute under which the assistance was provided.

In § 97.233(c)(4) the services of outreach and intake have been labeled as services to applicants, and paragraphs (i), (ii), (iii), and (iv) have been renumbered. The services of intake, orientation, counseling, and child care have been defined and transportation has been moved from manpower services to supportive services.

In § 97.233(c)(4)(iii) transportation has been moved from manpower services to supportive services.

In § 97.233(c)(4)(iii)(C)(9), Adult Basic Education has been removed from supportive services and Referral to non-303 funded services has been added.

In § 97.233(c)(4)(iii)(E) and § 97.233(c)(5)(iii), the words "as the only activity in which the participant is enrolled" have been deleted.

In § 97.236 *Cooperative relationships between sponsor and other manpower agencies*, in paragraph (a), the examples of Job Corps and the Employment Service has been inserted. Also, grantees are required to maintain documentation on linkages established.

In § 97.236(b) the requirement to establish cooperative relationships with SESA's is added.

§ 97.237 *Performance standards*. In the proposed regulations published October 19, 1976, this section was reserved. A revised set of performance measurements is being reviewed by the Department for future implementation. Until that is finalized, the section on performance standards remains unchanged from the July 9, 1975, regulations.

In § 97.252 *Audit* two provisions have been added which are different from those in § 98.6(e)(2). Audits shall be conducted every year for section 303 grantees for grants of $25,000 or more.

In § 97.253 *Reporting Requirements*, paragraph (b) a new reporting requirement has been added. Sponsors are required to submit a current list of all CETA participants receiving wages to the SESA's upon request.

In § 97.255 *Allowable Federal Costs*, the language has been revised in paragraph (a) clarifying the definition of direct and indirect costs.

In § 97.255(d), language has been added to require grantees to assure that all subgrantees and contractors plan, control and report expenditures against the six cost categories defined in § 97.255 (e) and plan for unemployment insurance costs to be incurred during the grant year.

In § 97.255(e)(2) the language has been changed to allow grantees to charge the cost of insurance policy premiums incurred to provide comparable insurance to workmen's compensation for classroom training or services to participants' enrollees, to the cost categories of Training or Services.

In § 97.255(e)(4) language has been added to clarify that training costs consisting of goods and services which directly affect participants should be for instruction of participants in either a work environment or classroom.

In § 97.255(e)(6) language has been added to define administration costs as all indirect and direct costs identified with the management of the grant including subgrantee and contractors, and supervision.

In § 97.255(e)(7), language has been added to allow grantees to charge single unit charges to the dominant cost category if the cumulative amount of common charges such as doctor's bills or tuition fees will not exceed $25,000 during the grant year, and clarify that for such charges as tuition fees in excess of the $25,000 for which details cannot be obtained, benefits can be charged to cost categories based on estimates.

In § 97.255(f)(1), Wages, language has been added to specify that cost of living increases are to be considered wages.

In § 97.255(f)(2), Fringe benefits, language has been added to prohibit the charging of cost of living increases to fringe benefits and to require grantees to charge unemployment insurance costs as they are incurred.

In § 97.255(f)(4) Training, the language has been revised to allow grantees to charge the costs of classroom space and utilities, instructor's equipment and clerical support to the cost category of Training.

In § 97.255(f)(5)(v), Services, language has been added to allow grantees to charge the travel, equipment, space and utilities costs identified with such positions as job developers, counselors, and outreach workers. Additionally, transportation of participants will be an allowable cost under Services.

In § 97.255(g) Travel Costs, language is revised and clarified so that prior approval of the Secretary is not required for section 303 staff and board members if travel is within the section 303 target area or for a Department sponsored conference or meeting.

Section 97.256 *Allowances, wages, general benefits, and working conditions for program participants* has been divided into separate sections so that § 97.256 is titled *Allowances;* § 97.257 is titled *Wages;* § 97.258 is titled *Minimum duration of training; reasonable expectation of employment;* and § 97.259 is titled *General benefits and working conditions for program participants*. Each of these sections has been written out in order to eliminate the need to reference corresponding paragraphs in sections 95 and 98. As a result, § 97.257–97.269 have been renumbered.

In paragraph (b) of § 97.256 *Training allowances*, clarification has been made that allowances shall be paid for classroom training except in cases where waivers have been granted; and allowances may be paid only for participation in activities listed under manpower services, § 97.233(c)(4)(iii)(B), or in other activities.

In § 97.258 *Minimum duration of training; reasonable expectation of employment*, language has been added so that an individual may not be referred for training which requires less than two weeks pre-employment training unless there are immediate employment opportunities available in that occupation.

In § 97.269, *Program income and limitations on program expenditures*, language was added to paragraph (a)(1) to require grantees to return interest earned from program funds within 30 days of the end of each grant quarter and paragraph (a)(3) to require that non-interest program income be expended according to the appropriate title of the Act.

In § 97.270 *Procurement standards*, a new paragraph (c) has been added to make applicable to non-governmental grantees the definitions of subgrant and contract spelled out in § 98.20.

In paragraph (a) of § 97.292 *Procedures for complaints arising from the selection of potential grantees*, a sentence is added to clarify that this does not apply to subjects of negotiation.

Additionally, editorial, stylistic and technical changes are made in this revision.

Accordingly, 29 CFR Parts 94 and 97 are revised, effective February 7, 1977, for the operation of Fiscal Year 1977 grants, to read as follows:

Section 94.3 of Part 94 is revised by deleting the present Table of Contents for Part 97, Subpart C, and substituting therefor the new Table of Contents for Part 97, Subpart C, so that the revised section reads as follows:

§ 94.3 Consolidated Table of Contents for Parts 94–99.

* * * * *

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

SUBPART C—MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER PROGRAMS

GENERAL

Sec.
97.201 Scope and purpose of Title III, Section 303 Programs.
97.202 Scope and purpose of this subpart.
97.203 Definitions.
97.204 Allocation of funds.
97.205 Eligibility for allocable funds.

GRANT PLANNING AND APPLICATION PROCEDURES

97.210 Grant planning and application procedures in general.
97.211 Announcement of State Planning estimates and invitation to submit Funding Requests.
97.212 Preapplication for Federal Assistance.
97.213 Content and description of Funding Requests.
97.214 Submission of Funding Requests.
97.215 Review of Funding Requests.
97.216 Notification of selection.
97.217 Negotiation of final grant.
97.218 Grant award.
97.219 Annual competition.
97.220 Modifications.

PROGRAM OPERATIONS

97.230 General.
97.231 Basic responsibilities of grantees under Section 303.
97.232 Eligibility for participation in Section 303 programs.
97.233 Type of program activities available.
97.234 Complaint procedure.
97.235 Training for lower wage industries; relocation of industries.
97.236 Cooperative relationships between grantee and other manpower agencies.
97.237 Performance Standards.

GRANT ADMINISTRATION

97.250 Grant administration in general.
97.251 Private nonprofit organizations; financial management systems.
97.252 Audit.
97.253 Reporting requirements.
97.254 Reallocation of funds.
97.255 Allowable Federal costs.
97.256 Training Allowances.
97.257 Wages.
97.258 Minimum duration of training; expectation of employment.
97.259 General benefits and working conditions for program participants.
97.260 Allocation of allowable costs among program activities.
97.261 Bond coverage of officials.
97.262 Basic personnel standards for grantees and subgrantees.
97.263 Non-Federal status of participants.
97.264 Grantee contracts and subgrants.
97.265 Adjustments in payments.
97.266 Termination of a grant.
97.267 Suspension and debarment.
97.268 Grant closeout procedures.
97.269 Maintaining and retention of records.
97.270 Program income and limitations on program expenditures.
97.271 Procurement standards.
97.272 Labor standards.
97.273 Allowances and reimbursements for board and advisory council members.

ASSESSMENT AND EVALUATION

97.280 Assessment and evaluation.

ADMINISTRATION REVIEW

97.290 Purpose and policy.
97.291 Procedure for complaints by eligible individuals and program participants.
97.292 Procedure for complaints arising from the selection of potential grantees.

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AUTHORITY: Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93–203, 87 Stat. 839; Pub. L. 93–567, 88 Stat. 1845), secs. 702(a) and 303, unless otherwise noted.

Part 97, Subpart C is revised to read as set forth below:

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SUBPART C—MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER PROGRAMS

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97.202 Scope and purpose of this subpart.
97.203 Definitions.
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97.205 Eligibility for allocable funds.

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97.214 Submission of Funding Requests.
97.215 Review of Funding Requests.
97.216 Notification of selection.
97.217 Negotiation of final grant.
97.218 Grant award.
97.219 Annual competition.
97.220 Modifications.

PROGRAM OPERATIONS

97.230 General.
97.231 Basic responsibilities of grantees under Section 303.
97.232 Eligibility for participation in Section 303 programs.
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97.253 Reporting requirements.
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97.264 Grantee contracts and subgrants.
97.265 Adjustments in payments.
97.266 Termination of a grant.
97.267 Suspension and debarment.
97.268 Grant closeout procedures.
97.269 Maintaining and retention of records.
97.270 Program income and limitations on program expenditures.
97.271 Procurement standards.
97.272 Labor standards.
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97.292 Procedure for complaints arising from the selection of potential grantees.

AUTHORITY: Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93–203, 87 Stat. 839; Pub. L. 93–567, 88 Stat. 1845), secs. 702(a) and 303, unless otherwise noted.

Subpart C—Migrant and Seasonally Employed Farmworkers programs

GENERAL

§ 97.201 Scope and purpose of Title III, section 303 Programs.

(a) It is the purpose of Title III section 303, of the Act to provide manpower and other services for those individuals who suffer chronic seasonal unemployment and underemployment in the agriculture industry, which has been substantially affected by recent advances in technology and mechanization. These individuals constitute a substantial portion of the nation's rural manpower problem and substantially affect the entire national economy.

(b) Because of the special nature of the problem faced by migrant and seasonal farmworkers, the programs developed and implemented under this section of the Act shall be administered by the Employment and Training Administration at the national level. Such programs will be flexible in design and shall have these primary objectives:

(1) *Alternatives to agricultural labor.* Provision of services to migrant and other seasonally employed farmworkers and their families who wish to seek alternative job opportunities to seasonal farmwork which will equip them to compete in other labor markets and to secure stable year-round employment providing an income above the poverty level.

(2) *Improved agricultural life style.* Provision of services necessary to improve the well-being of migrants and

other seasonally employed farmworkers and their families who remain in the agricultural labor market and/or to upgrade their skills to enable them to take advantage of job opportunities created by changing agricultural technology.

§ 97.202 Scope and purpose of this subpart.

(a) The regulations promulgated to carry out the Act are set forth in 29 CFR Parts 94–99 as published in the FEDERAL REGISTER on June 25, 1976 (40 FR 26334). As each substantive title of the Act provides for the establishment of a specific type of program, the regulations promulgated in Parts 94 through 99 provide a separate part for each basic type of activity, and two parts deal with general matters relating to the Act. This subpart deals with all matters pertaining to the implementation and operation of Migrant and Seasonal Farmworker Programs pursuant to section 303 of the Act. It is designed to contain in itself all the regulatory material under the Act necessary for the operation of section 303 programs except where specific reference is made to other parts of this title. When the provisions of this subpart conflict with the provisions of other regulations under the Act, the provisions of this subpart shall prevail.

(b) Statutory authority for the regulations contained in this Subpart C may be found in sections 303 and 702(a) of the Act, as amended as well as in other substantive provisions of the Act.

§ 97.203 Definitions.

A listing of definitions of terms used in the regulations promulgated to implement the Act is set forth in § 94.4 of this subtitle. Those definitions applicable only to section 303 or having special significance to section 303 are the following:

"Allocation" shall mean the amount of funds calculated in accordance with section 97.204 of this subpart to be used as planning estimates for section 303 programs in each State and distributed in accordance with the requirements of this subpart.

"Appropriate amount" for the purposes of committing Title I and/or II funds for farmworkers shall mean an amount proportional to the significance of the farmworkers in the prime sponsor's population; for example, the amount whose ratio to the total Title I funds available to the prime sponsor is equivalent to the ratio of the number of farmworkers to the total number of low-income workers in the prime sponsor's jurisdiction.

"Eligible Applicant," for purposes of receiving funds allocable pursuant to § 97.204(c) of this title, shall mean:

(a) A recognized prime sponsor under CETA Title I having within its jurisdiction a significant segment of migrant and other seasonally employed farmworkers for whom it has committed funds provided under Title I and/or II of the Act in an appropriate amount; or a public agency designated by such prime sponsor to receive section 303 funds;

(b) A private nonprofit organization authorized by its charter or articles of incorporation to provide manpower or such other services as may be funded under this subpart.

"Emergency assistance" shall mean temporary services on an emergency basis which are not immediately available from non-section 303 sources.

"Establishment" shall mean an economic unit, generally at a single physical location, where business is conducted (For example: Farm, orchard, ranch). For the purposes of the "seasonal farmworker" definition, farm labor contractors and crew leaders are not considered establishments; it is the organizations to which they supply the workers that are the establishments.

"Family" shall mean one person, or more than one person living in a single household who are related to each other by blood, marriage, or adoption. A stepchild or foster child who receives at least 50 percent of his/her support from the stepparent or foster parents shall be counted as a member of the stepparent's or foster parents' family. A member of a household:

(1) Who is 18 or older, and

(2) Who receives less than 50 percent (50%) of his/her maintenance from the family, shall not be considered to be a member of the family. Such an individual shall be considered as a family residing alone or in group quarters.

"Farmwork" shall mean work performed for wages in agricultural production or agricultural services (as defined in the most recent edition of the Standard Industrial Classification (SIC) Code definitions included in industries 01, 02 (excluding 027), and 07 excluding 074, 0752, and 078).

"Farmworker organization" shall mean a private nonprofit organization directed principally by farmworkers.

"Funding request" shall mean a formal proposal submitted by an applicant which detail the type and extent of services to be provided to farmworkers and their dependents for consideration by the Secretary for funding under section 303.

"Health care" shall include but is not limited to preventive and clinical medical treatment for farmworkers and their dependents.

"Manpower services" shall mean such services as (a) orientation; (b) counseling; (c) job development; (d) referral; (e) job placement; (f) followup.

"Migrant farmworker" shall mean a seasonal farmworker who performs or has performed during the preceding twelve months agricultural labor which requires travel such that the worker is unable to return to his/her domicile (accepted place of residence) within the same day.

"Nutritional assistance" shall mean services including but not limited to assisting farmworkers and their dependents to obtain food stamps and vouchers, access to other food programs, fair hearings and limited direct cash purchases of food.

"Participant" shall mean an individual who qualifies and receives services except for an individual who receives only outreach and intake (including assessment) services. An individual applicant becomes a participant when:

(1) The individual is declared eligible upon intake; and

(2) The individual receives employment, training or services funded under the Act following intake, except for an individual who receives only outreach and intake (including assessment) services.

"Planning estimates" shall mean the preliminary allocations announced for the purpose of providing target funding levels for each State.

"Relocation assistance" shall mean the activities necessary to arrange for a family to move to a new abode for the purpose of receiving services and/or training which will lead to alternative job opportunities to seasonal farmwork. Activities may include but are not limited to: Necessary manpower services; the costs of the actual transfer of goods and property including mileage for the families' travel; emergency assistance; rent subsidies; and other supportive services.

"Residential support" shall mean the provision of temporary housing for families receiving training, supportive services, or post-placement services. The grantee may offer such housing in several ways including but not limited to directly operating a residential facility with all necessary services or through the grantee's subsidizing all or part of the rental and utility costs for an enrolled family.

"Seasonal farmworker" shall mean a person who during the preceding twelve months worked at least 25 days in farm work and worked less than 150 consecutive days at any one establishment. "Seasonal farmworker" includes both migratory and nonmigratory farmworkers, but does not include supervisors or nonmigratory individuals who are full-time students or farmworkers who are not "seasonal" as defined in the preceding sentence.

"Section 303" shall mean the Migrant and Seasonal Farmworker Programs, section 303, Title III of the Comprehensive Employment and Training Act of 1973 (Pub. L. 93–203, 87 Stat. 839).

"State" includes the Commonwealth of Puerto Rico.

"Supplemental funds" shall mean any funds allocated in excess of that amount announced as a "planning estimate."

"Supportive Services" shall mean such services as health and medical service, child care, transportation, emergency assistance, relocation assistance, residential support, nutritional services, and legal services, designed to improve the well being of those remaining as seasonal farmworkers as well as such services described in § 94.4(ddd) of the subtitle.

"Target area" shall mean a geographic area to be served by a section 303 grant. Such an area may be a county, multicounty area, a state, or a multi-state area.

"Target population" shall mean farmworkers and their dependents who meet § 97.232.

§ 97.204 Allocation of funds.

(a) *Available funds.* For the purpose of implementing this subpart and pursuant to section 303 of the Act, the Secretary shall reserve, from funds available for Title III programs, funds to serve migrants and other seasonally employed agricultural workers in an amount equal to not less than 5 percent of the amount allocated pursuant to section 103 (a) (1) of the Act.

(b) *National Account.* (1) No more than twenty percent (20%) of the statutory reserve for section 303 activities will be set aside for the National Account, to be used at the discretion of the Secretary for experimental programs; clearing house activity; labor market information; interstate programs; special needs, including but not limited to projects such as permanent housing; programs to meet the needs of emergency situations and changing agricultural technology; and other programs.

(2) Funds from the National Account may be obligated by the Secretary by means of either contracts or grants to private nonprofit agencies or contracts to private profit making organizations. National Account funds obligated to states and local units of government shall be awarded through grants.

(3) The Secretary shall fund programs from the National Account according to procedures deemed advisable by the Secretary, but all National Account programs shall include performance standards specifically designed for those programs.

(4) The provisions of this Subpart C apply in their entirety to programs funded from the National Account, with the exception of §§ 97.205, (Eligibility for Allocable Funds), 97.211 (Allocations), 97.213–97.215 (Selection of Potential Grantees) and paragraph (b) of § 97.237 (Performance Standards).

(c) *State allocations (allocable funds).* (1) No less than eighty percent (80%) of the funds reserved for section 303 activities shall be allocated for farmworker programs in individual states in an equitable manner using the best data available as determined by the Secretary.

(2) *Hold harmless clause.* No state shall be allocated an amount which is less than 90 percent of the amount of allocable section 303 funds announced as the State planning estimate. The base amount on which the 90 percent is calculated shall not include any supplemental funds which may have been allocated in the prior fiscal year. If during any fiscal year the appropriation for section 303 is less than that appropriated in the previous fiscal year, the Secretary reserves the right to suspend the provisions of paragraphs (c) (1) and (2) of this section.

(3) *Allocation Exceptions.* (i) The Secretary reserves the right not to allocate any funds for use in a State whose allocation is less than $50,000. The Secretary will announce which state(s) will not be allocated funds on or about July 1 of each fiscal year. If the State allocation would be an amount less than $50,000, the Secretary may allocate $50,000 for programs in that State.

(ii) Currently funded programs which are unsuccessful applicants for grant funds shall be given notice that funding will terminate upon expiration of the current grant and at least ninety-days lead time to phase out their operations, but such notice will not bind the Secretary to obligate additional funds. The notification of non-selection shall be the notice of termination and the requirements of § 97.267 are to be followed.

(4) *Funding cycle.* All projects funded through State allocations shall be funded beginning January 1 of each year in accordance with the following funding cycle:

(i) On or about July 1: Announcement of State planning estimates and the invitation to submit Funding Requests for State(s) or area(s) open for competition as provided in § 97.219.

(ii) August 1: Deadline for submission of Preapplication Forms for Federal Assistance forms (3 p.m., e.d.t.).

(iii) September 1: Deadline for submission of Funding Requests (3 p.m., e.d.t.).

(iv) On or about November 1: Notification of selection as potential grantees.

(v) January 1: Commencement of grant awards.

If the Secretary deems it advisable to alter the funding cycle provided herein a revised funding cycle shall be published in the FEDERAL REGISTER on or about July 1 of any fiscal year.

§ 97.205 Eligibility for allocable funds.

The following organizations and units of government shall be eligible to receive allocable funds available under section 303:

(a) A recognized prime sponsor under CETA Title I having within its jurisdiction a significant segment of migrant and other seasonally employed farmworkers for whom it has committed funds provided under Title I and/or II of the Act in an appropriate amount; or a public agency within such a prime sponsor's geographic boundaries designated by that eligible prime sponsor to receive section 303 funds in its place.

(1) An applicant eligible under paragraph (a) of this section which wishes to apply for consideration for grant funds to operate programs in an area outside the area in which it is eligible to operate under CETA Title I may do so only with the concurrence of the Title I prime sponsor for that area so affected. Such concufrence may be accomplished by means of an agreement that provides for a subgrant from the applicant prime sponor to the affected Title I prime sponsor or by letter from the affected prime sponsor authorizing the applicant prime sponsor to operate programs in the affected area.

(b) A private nonprofit organization authorized by its charter or articles of incorporation to provide manpower or such other services as are permitted by this subpart.

(c) An organization which wishes to be considered for grant funds to operate programs in more than the State shall submit separate Funding Requests for each state for which it wishes to be considered for funding. An applicant eligible under paragraph (a) of this section which wishes to operate programs in an area outside of its State may do only with the concurrence of the Title I prime sponsor for that area.

GRANT PLANNING AND APPLICATION PROCEDURES

§ 97.210 Grant planning and application procedures in general.

Section 97.210–07.220 provide procedures for obtaining and modifying a grant to operate programs under section 303 of the Act. Specifically, these sections describe the procedures in the grant award process from the announcement of invitation to submit Funding Requests, through the grant application process, to review by the Department and approval of the grant.

§ 97.211 Announcement of State planning estimates and invitation to submit Funding Requests.

(a) *Announcements.* (1) *State planning estimates.* On or about July 1 of each fiscal year the Secretary shall announce State planning estimates of resources available to implement section 303 programs.

(2) *States or areas open for competition under section 303.* On or about July 1 of each fiscal year the Secretary shall announce a list of States and/or areas open for competition under section 303 as provided in § 97.219.

(3) *Invitation to submit funding requests.* On or about July 1 of each fiscal year, the Secretary shall invite applicants as defined in § 97.203 interested in receiving funding under section 303 to submit a Funding Request. The invitation will cover only those areas designated by the Secretary as open for competition.

(4) These announcements shall be made in the FEDERAL REGISTER and through the appropriate Regional Administrator for Employment and Training.

(b) *Intention to apply.* (1) Any eligible applicant intending to apply for funds from a State allocation must submit a Preapplication for Federal Assistance form to the Secretary by August 1, of each fiscal year.

(c) *Opportunity for review and comment:* (1) On or about August 20 of each fiscal year, the Secretary shall publish in the FEDERAL REGISTER a list of all eligible applicants which have submitted preapplications for all or part of each State allocation: (2) Eligible applicants wishing to review and comment on the Funding Request of any eligible applicant within their State as listed in the FEDERAL REGISTER pursuant to paragraph (c) (1) of this section must request a copy of the Funding Request from the eligible applicant so listed.

(3) Eligible applicants submitting a Funding Request to the Secretary to be

considered for all or part of a State's allocable funds must send a copy of the Funding Request to all other eligible applicants within the State which have requested a copy of the Funding Request pursuant to paragraph (c)(2) of this section.

(4) These copies must be submitted to requesting organizations at the same time the Funding Request is submitted to the Secretary. Funding Requests sent by mail to requesting organizations pursuant to paragraph (c) (2) and (3) of this section shall be sent by registered or certified mail with return receipt requested or if a Funding Request is delivered by hand, the recipient eligible applicant shall provide a written receipt bearing the time and date of delivery.

(5) Comments of Funding Requests shall be submitted to the Secretary at the address provided in § 97.214, within 30 days of receipt of the Funding Request, but no later than October 8, of each fiscal year. A copy of all comments must also be sent to the concerned eligible applicant by registered mail at the same time.

§ 97.212 Preapplication for Federal assistance.

(a) An applicant eligible to receive allocable funds available under section 303 shall submit a preapplication to the Secretary. The preapplication shall consist of Standard Form 424 as prescribed by Federal Management Circular (FMC) 74–7, with an attachment identifying the target area by State and Counties.

(b) Preapplication for Federal Assistance form, Part I, shall be submitted to the offices identified in § 97.214 (a) and (b). If an organization does not submit a Preapplication for Federal Assistance form by August 1, its Funding Request shall not be considered.

§ 97.213 Content and description of funding request.

(a) *General.* (1) This section describes the Funding Request forms which applicants shall use to apply for funds under section 303.

(2) Forms and instructions are contained in the Forms Preparation Handbook and its section 303 supplement and are available from the Secretary upon request.

(3) The Funding Request consists of four parts: The application for Federal Assistance; the Eligibility documentation; the Comprehensive Plan for Farmworkers; and the Assurances and Certifications form.

(b) *Funding Request forms.* (1) *Application for Federal Assistance.* This identifies the applicant and the amount of funds requested. It provides information concerning the area to be served and the number of farmworkers expected to benefit from the program. The form provided in Federal Management Circular 74–7, Part I, grant application for nonconstruction programs, shall be used with such other forms, as may be required.

(2) *Eligibility documentation.* The following documents shall be submitted by an applicant to meet the eligibility requirements for section 303.

(i) A statement indicating the legally constituted authority under which the organization functions;

(ii) An employer identification number from the Internal Revenue Service; and, for private nonprofit applicants, proof of their tax-exempt status;

(iii) A certification by the chief fiscal officer of a public organization or by a CPA for private nonprofit organizations attesting to the adequacy of the applicant's accounting system, if applicable (refer to § 97.251 to determine applicability);

(iv) A copy of the Comprehensive Manpower Plan component which describes CETA Titles I and/or II services to be made available to farmworkers for the fiscal year for which funds are requested (for CETA prime sponsor applicants only) pursuant to § 97.205(a).

(v) Documentation of concurrences from affected prime sponsor(s), as described in § 97.205(a) (for CETA prime sponsor applicants only).

(3) *Comprehensive Plan for Farmworkers.* The Comprehensive Plan for Farmworkers is a detailed explanation of how the applicant proposes to use section 303 funds for farmworkers within its target area. Upon incorporation into the grant agreement, the amended Comprehensive Plan for Farmworkers will become the basis for programmatic and fiscal accountability of the section 303 grant. The Comprehensive Plan for Farmworkers consists of the Narrative Description of the Program, the Program Planning Summary, and Budget Information Summary described below:

(i) *Narrative description of program.* The Narrative Description of the Program analyzes the manpower and social problems of the target population within the target area to set priorities and goals, describes proposed program activities and delivery systems to meet these goals, proposes performance standards for all program activities, and projects the results which may be expected from the program. The Narrative Description of the Program requires a detailed justification and description of each program activity, including the following specific items (the Forms Preparation Handbook is a guide for completing these items):

(A) Objectives and needs for assistance:

(*1*) Policy statement on purpose of program;

(2) Description of economic conditions;

(3) Analysis of labor market and social service situation;

(*4*) Statement of number of farmworkers and dependents to be served; and

(5) Goals and priorities.

(B) Program design and results expected:

(*1*) Statement of strategy for accomplishing goals;

(2) Detailed description of each program activity and service, including costs, manner of delivery, specific objectives, and performance standards; and

(3) Enumeration of objectives and performance standards related to goals identified in Part A of the Narrative Description of Program.

(C) Approach:

(*1*) Description of the planning system, participation of and role of the governing board or advisory councils in planning and implementation;

(2) A copy of the by-laws or other official documents showing the structure of pertinent Boards, Area Councils, or Advisory bodies;

(*3*) Description of the delivery system;

(*4*) Description of recruitment and eligibility verification methods;

(*5*) Description of the applicant's administrative system;

(*6*) Resumes of key management staff;

(*7*) Justification of section 303 funded administrative costs as defined in § 97.255, in excess of 20 percent;

(*8*) Documentation of past experience including, but not limited to, the following:

(i) Reports both programmatic and financial, submitted to agencies to which the applicant is accountable for program performance;

(ii) Names and telephone numbers of responsible officials who can substantiate any narrative assertions of past experiences;

(iii) Evaluations, assessments, reports, letters, etc., compiled by organizations other than the applicant;

(iv) A statement for all documentation giving the relationship between the applicant and other organization(s) involved; and

(*9*) A description of linkages with other manpower programs, other social service programs, and farmworker organizations, including letters of commitment for all services to be provided section 303 participants at no cost to section 303;

(*10*) Description of monitoring and self-evaluation system.

(D) Geographic location served. Description of the geographic locations within the target area in which the applicant has operated and in which the proposed program will operate, and in which it will recruit and refer participants.

(E) Detailed Budget. For each program activity, section 303 grantees will be required to submit an itemized budget of allowable costs, as defined in §§ 97.255 and 97.260. The CETA and the non-CETA share of the total costs shall be noted for each program activity. For all section 303 funds requested, personnel and nonpersonnel costs shall be itemized for each program activity proposed and for the cost category of administration. This itemization shall include individual operational staff salaries, staff fringe benefits, staff travel, equipment purchases, etc.

(ii) *Program planning summary.* The Program Planning Summary requires an applicant to provide a quantitative statement of enrollment levels, the number of participants to be served by each program activity (classroom training, on-the-job training, work experience, serv-

ices to participants, and other activities), and outcomes for program participants. It also requires identification of the number of individuals to be served within the target population.

(iii) *Budget information summary.* The Budget Information Summary requires an applicant to provide a quantitative statement of planned expenditures and obligations. It requires an applicant to indicate yearly planned expenditures by cost category (administration, allowances, wages, fringe benefits, training, and services); the applicant is to reflect planned quarterly obligations and expenditures by program activity.

(4) *Assurances and certifications.* The Assurances and Certifications form is a signature sheet on which the applicant assures and certifies that it will comply with the Act, the regulations of the Department, other applicable laws, and applicable Federal Management Circulars from the General Services Administration (GSA). Signature of the Assurances and Certifications form by private nonprofit section 303 Eligible Applicants and Grantees shall mean that section 303 funds shall be expelled in compliance with Federal Management Circulars 74–4 and 74–7; provided that if a Federal Management Circular applicable to the administration of grants to non-profit organizations becomes effective before the grant period, such Circular shall supersede any provisions of FMC 74–4 and 74–7 (made applicable to private nonprofit organizations by this subpart) which conflict with the provisions of such Circular. The Assurances and Certifications form is contained in the Forms Preparation Handbook. The following is a summary of the items which are described in detail on that form:

(i) Compliance with the Act and regulations issued under the Act

(ii) Compliance with Federal Management Circulars 74–4 and 74–7 and OMB Circular A–95;

(iii) Legal authority to apply for a section 303 grant;

(iv) Nondiscrimination (section 703 (l));

(v) Compliance with Title VI and VII of the Civil Rights Act of 1964;

(vi) Compliance with the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970;

(vii) Compliance with the Hatch Act and restrictions on political activities (as applicable);

(viii) Prohibition on use of position for private gain;

(ix) Access of Comptroller General and Secretary to records and documents pertaining to the Act;

(x) Nonsupport of religious facilities;

(xi) Maintenance of required health and safety standards;

(xii) Position of appropriate worker's compensation to participants;

(xiii) Use of funds under the Act to supplement rather than supplant funds otherwise available, prohibition on displacement of employed workers by participants employed under the Act, and prohibition on impairment of existing contracts for services;

(xiv) Prohibition of use of funds for lobbying activities in violation of 18 USCA 1913.

(xv) Compliance with Department of Treasury Regulations found at 31 CFR 205.

(xvi) Compliance with the provisions in the Clean Air Act and Federal Water Pollution Control Act.

§ 97.214 Submission of Funding Request.

(a) An eligible applicant shall submit three copies of the Funding Request to the address listed below:

U.S. Department of Labor
Employment and Training Administration
Patrick Henry Building—Room 7122
601 D Street NW.
Washington, D.C. 20213
ATTN: Chief, Division of Farmworker Programs

(b) Two copies of the Funding request shall also be submitted directly to the appropriate Regional Administrator for Employment and Training Administration at the same time the three copies are submitted to the above address and labeled: Funding Request for CETA 303 Farmworker Program.

(c)(1) Copies of the Funding Request shall also be submitted to the appropriate State and/or area clearinghouse(s), as well as to those eligible applicant(s) which request an opportunity for review and comment as provided in § 97.211(c) at the same time the Funding Request is submitted to the above address. Eligible applicants shall send a statement to the above address accompanying the Funding Request, indicating that the procedures in this paragraph have been followed.

(2) All comments from clearinghouses and other reviews shall be submitted to the above address by October 8. However, no notification of selection of potential grantee(s) for a State or area will be made until all clearinghouses and other reviews have had at least 30 days from receipt of the Funding Request from that State or area to submit comments.

(d) Funding Requests sent by mail to the address provided in paragraphs (a) and (c) of this section must be registered or certified with return receipt requested. In order to be considered to be submitted on time by the Employment and Training Administration, the following conditions must be met:

(1) The Funding Request must be registered or certified by the Postal Service on or before 3 p.m. September 1. In the event that September 1 falls on a Sunday, on a holiday, or at any other time during which the Postal Service is not operational, it shall be the responsibility of the applicant to properly register and certify the Funding Request so that it will bear a post mark prior to 3:00 p.m. September 1. No deviation in this condition will be made by the Employment and Training Administration, and all Funding Requests received bearing postmarks after 3:00 p.m. September 1, shall be returned without consideration.

(e) Funding Requests delivered by hand must be taken to the address given in paragraph (a) of this section. All applicants who deliver a Funding Request will be given a receipt bearing a time and date of delivery. Funding Requests will be accepted daily between the hours of 8:15 a.m., and 4:45 p.m., Washington, D.C. time, except Saturdays, Sundays, and holidays. Funding Requests will not be received after 3 p.m., e.d.t., on September 1. In the event that September 1 falls on a Saturday, Sunday or, holiday, it shall be the responsibility of the applicant to deliver the Funding Request so that it will be received prior to 3 p.m., e.d.t., September 1. No deviation in this condition will be made by the Employment and Training Administration and no Funding Request delivered after 3 p.m., e.d.t., September 1 shall be accepted.

§ 97.215 Review of Funding Requests.

(a) *Standards for reviewing Funding Requests for allowable funds.* Funding Requests submitted by applicants shall be reviewed and evaluated by the Secretary to determine those judged to be most qualified to receive a grant under section 303 for program operations in a particular target area according to the procedures outlined in paragraph (a) of this section. In addition, when appropriate under section 306 of the Act. Funding Requests shall be reviewed by the Secretary of the Department of Health, Education, and Welfare (DHEW) or his/her designee in accordance with section 306 of the Act.

(1) *Determination of eligibility.* The Secretary shall review the documentation described in § 97.213(b)(2) to determine the eligibility of each applicant and shall: (i) Designate the organization as eligible under section 303; or (ii) determine that the organization is conditionally eligible pending submission of further documentation; or (iii) determine that the organization is ineligible under section 303. An organization determined to be ineligible shall not be reviewed further.

(2) *Review of Comprehensive Plan for Farmworkers.* The Comprehensive Plans for Farmworkers submitted by applicants shall be reviewed and evaluated by the Secretary to determine those applicants which will be designated potential grantees for a particular target area.

(i) Factors for evaluating Plans. Plans shall be evaluated by the Secretary based on the criteria listed in this paragraph.

(ii) Each of the following factors is assigned a numerical range which shall be used to rank Plans. A separate rating within the identified range for each factor shall be assigned to each Plan based on information provided in the Plan. The sum of the ratings shall constitute the overall rating of the Plan. The following factors shall be considered in assigning ratings:

(A) *Program development.*—Range 0–10. The program development factor is a rating of the proposed program's potential impact on the full range of farmworker needs and its fulfillment of the

intent of section 303. The rating will consider the following elements:

(1) *Training.* The proposed program provides alternatives for farmworkers to leave farmwork by offering training in a number of occupations providing a wage above the poverty level into which participant can be successfully placed within the existing economic and labor market conditions in the target area. The proposed program provides alternatives for farmworkers to secure full time argriculture work providing an income above the poverty level.

(2) *Services.* The proposed program provides supportive services which are necessary to assist farmworkers in leaving seasonal farmwork and/or provides services which will improve the living and working conditions of farmworkers remaining in agriculture.

(3) *Program impact.* The proposed program will directly impact on the problems and needs of farmworkers in the particular target area. The highest rating of 10 shall be awarded to an organization which has adequately analyzed the economic situation of the target area and identified the social and economic needs of the target population, and has developed a program based on this analysis and identification, which provides service including training and supportive services that can be successfully implemented within the existing target area economic and labor market situations to meet these needs.

(B) *Delivery system—Range* 0–10. The delivery system factor is a rating of the applicant's system for delivering the comprehensive program services and its potential ability to provide effective and timely services to farmworkers. This rating shall include the potential effectiveness of subgrantees and contractors in providing services specifically for farmworkers.

(1) The highest rating of 10 shall be awarded to an organization whose delivery system is efficiently integrated and whose subgrantees' and contractors' delivery systems are coordinated with the applicant's into a functioning unit.

(C) *Administrative capability.—Range* 0–10. The administrative capability factor is a rating of the applicant's management experience and efficiency. The rating shall include consideration of the managerial expertise of the organization's present and proposed staff in managerial and decisionmaking positions. This factor shall also consider administrative efficiency based on comparative administrative cost. The highest rating of 10 shall be awarded to organizations which can demonstrate the capability to administer efficiently a multi-activity delivery system with comparatively low administrative costs.

(D) *Responsiveness to farmworkers.—Range* 0–10. The responsiveness to farmworkers factor is a rating of the organization's active and visible involvement of farmworkers in its planning and the proposed involvement of farmworkers in implementation of its proposed program of services. The rating will also consider the sensitivity of the organization's present and proposed staff in program positions. The rating will consider the following elements:

(1) *Involvement of Farmworker Boards/Advisory Councils.* This factor is a rating of the involvement of farmworkers on applicant's governing boards and advisory councils in the planning, implementation and operation of the proposed program. This involvement shall be manifested by the responsibilities incorporated in the board's or advisory council's by-laws and the farmworker representation on these bodies. The highest rating of seven shall be awarded to organizations whose boards or advisory councils have responsibility for reviewing and making recommendations on section 303 plans, monitoring section 303 program operations, recommending corrective action, and having established mechanisms for effecting necessary corrective actions, and whose membership includes farmworkers.

(2) *Staff sensitivity.* The sensitivity factor is a rating of the ability of the organization's staff to relate to farmworkers and be responsive to their needs. The highest rating of 3 shall be awarded to those organizations whose staffing includes ex-farmworkers and reflects the ethnic, racial, and sexual composition of the target population.

(E) *Linkages and coordination.—Range 0–10.* The linkages and coordination factor is a rating of an organization's demonstrated and documented programmatic ties with appropriate State and local agencies, private nonprofit organizations, and other groups providing resources and services to farmworkers. The highest rating of 10 shall be awarded to applicants which would operate programs incorporating services at less than, or no cost to section 303 from other agencies for the purpose of providing manpower and other services to participants and whose Funding Request includes letters of commitment for these services.

(F) *Review of experience.*—Range 0–50. The organization's past experience in providing a comprehensive program of manpower and other services shall be reviewed and evaluated by the Secretary to determine those judged to be most qualified to receive a grant under section 303 for program operations in a particular target area. A numerical range of 0–50 shall be used to rank the experience of applicants.

(1) *Existing section 303 grantees.* For existing section 303 grantees competing as eligible applicants, the review of experience will be based on the record of performance in delivering section 303 services. The Secretary shall review and evaluate the grantee's performance through review of reports, monitoring and/or auditing of the program. The highest rating of 50 may be awarded to a grantee which has provided an effective program of services for farmworkers; the factors in this ratio shall include but not be limited to (A) meeting or exceeding all of the individual grant performance standards in its Comprehensive Plan for Farmworkers; (B) meeting planned performance levels on its Program Planning Summary, and Budget Information Summary for the prior fiscal year (or on its Project Operating Plan); and (C) having met the requirements for program operations and grant administration of this Subpart C.

(2) *Other eligible applicants.* For applicants who are not section 303 grantees, the review of experience will be based on information submitted in the Funding Request. In order to receive a rating for experience, an applicant must have adequately identified the funding source(s) to which it was accountable. The assertions of success should be adequately substantiated and documented in the Funding Request, including official evaluations, if available. The Secretary reserves the right to verify the information submitted in the Funding request and to obtain additional information if the information submitted is not adequate for the purpose of this review. The following factors shall be considered in assigning ratings:

(A) *Program experience, regardless of nature of clientele.—Range* 0–40.

(1) The organization has operated an effective comprehensive program of services, including but not limited to the program activities and supportive services described in paragraphs (c) through (g) of § 97.233.

(2) The organization has provided training and other manpower services effectively.

(3) The organization has met or exceeded the stated objectives for program performance of all program activities it has provided.

(4) The organization has effectively administered a multi-activity delivery system, if applicable.

(5) The administration and management of the program has conformed to acceptable management standards, including but not limited to those set forth in the Grant Administration sections of this Subpart C and Part 98 of this subtitle.

(B) *Farmworker experience.—Range* 0–10. The organization or its subgrantee(s) has provided services specifically for farmworkers. A maximum rating of 10 shall be awarded for farmworker clientele. The highest rating of 50 shall be awarded to an organization which has operated a comprehensive multi-activity program of manpower and other services, whose assertions of effectiveness are supported by individuals from the funding source(s) and/or by an official evaluation, and has served farmworkers. The highest rating of 50 shall also be awarded to prime sponsors whose experience meets the standards presented above and whose subgrantees include farmworker organization(s).

(b) *Selection of potential grantees.* (1) As a result of the procedures set forth in paragraph (a) of this section, of consideration of the potential effectiveness and efficiency of the proposed programs, and of comments received pursuant to § 97.214(c), the Secretary shall designate potential grantees to receive a grant under section 303 for program

operations in a designated target area. The consideration of the potential effectiveness and efficiency of the proposed programs includes but is not limited to the following: (i) cost effectiveness, and (ii) service delivery consideration.

(2) The Secretary may conditionally designate organizations as potential grantees pending resolution of their eligibility status, submission of additional documentation, or changes in the proposed program.

(3) The Secretary also reserves the right to defer designation of any organization which has submitted a Funding Request for a state or area or to invite the submission of new proposals. Such designations will be deferred pending (i) adequate time to consider performance of current CETA section 303 applicants, or (ii) timely and satisfactorily correction of deficiencies by applicants in their current CETA section 303 programs.

(4) The Secretary reserves the right to not select an applicant if there is adequate evidence of substantial mismanagement of government funds.

§ 97.216 Notification of selection.

(a) (1) Potential grantees selected as a result of the procedures set forth in § 97.215 shall be so notified by the Secretary. The notification shall invite each potential grantee to negotiate the final terms and conditions of the grant, shall establish the time and place of the negotiation, and shall indicate the State or area to be covered by the grant. Changes in the proposed program's target area and/or funding level are not appealable under the provision of §§97.290–97.292.

(2) Clearinghouses submitting comments on the application will be notified of the selection of the potential grantee within seven working days of selection. Where a clearinghouse has recommended against the selection of the potential grantee, the notification shall include an explanation as to the reasons why its substantive comments were not accepted.

(b) In the event that no Funding Requests are received for a specific State or area or that those received are deemed to be unacceptable, for where a grant agreement is not successfully negotiated, the Secretary reserves the right to invite one or more organizations to submit a proposal for that State or area. In the event of a second invitation, the review criteria for allocable funds need not apply, and funds may be awarded at the discretion of the Secretary.

(c) An applicant whose Funding Request is not selected by the Secretary to receive section 303 grant funds shall be notified in writing and shall be provided the names and addresses of potential grantees for its State.

(d) Applicants who submit Funding Requests which have been rejected may resubmit a new Funding Request the State(s) or area(s) in which they are interested in providing services is announced by the Secretary as open for recompetition.

(e) Any applicant whose Funding Request is considered and rejected by the Secretary for a section 303 grant may request an administrative review as provided in § 97.290 and § 97.292.

§ 97.217 Negotiations of final grant.

(a) Notice of selection as a potential grantee does not constitute approval of the totality of the Funding Request, the funding level sought, nor of the target area requested.

(b) Prior to the actual award of a grant, representatives of the potential grantee and of the Secretary shall enter into negotiations. The subjects of negotiations shall include but shall not be limited to: (1) Program components; (2) subgrantees; (3) funding levels; (4) program objectives; (5) performance levels and standards; and (6) administrative systems.

(c) The Secretary reserves the right to decline to fund any program component(s) or subgrantee(s) or contractor(s) listed in a potential grantee's Funding Request, to add subgrantees, and to modify the target area to be served.

(d) In the event that the negotiations do not result in an acceptable negotiated grant for a section 303 program in a State or area, the Secretary reserves the right to terminate the negotiation and (1) decline to provide funds for section 303 programs in that State or area for that fiscal year or (2) publicly by announcement in the FEDERAL REGISTER invite submission of new proposals for the State or area or (3) negotiate with any organization.

§ 97.218 Grant Award.

(a) At the conclusion of negotiations a grant document which incorporates the results of all negotiations shall be prepared in conformity with FMC 74–7.

(b) The Secretary shall make a grant award by providing the grantee with a grant agreement consisting of the Grant Signature Sheet, the Assurances and Certification form, the Program of Work, the Program Planning Summary, Budget Information Summary, and Grant Conditions.

(1) The Grant Signature Sheet specifies the amount obligated by the Department, delineates the terms of the grant, and contains the signatures of the Secretary and the grantee official.

(2) The Assurance Certification form is described in § 97.213(b)(4).

(3) The Program of Work shall be a summary statement of the Comprehensive Plan for Farmworkers and shall incorporate the amended Comprehensive Plan for Farmworkers by reference.

(4) Grant Conditions are special restrictions placed on the grant by the Secretary.

(c) The grant agreement becomes effective upon signature by the Secretary.

(d) In signing the Grant Signature Sheet, the grantee official indicates the grantee's acceptance of the grant and of all grant conditions incorporated therein. The grant agreement becomes operational upon signature by both the Secretary and the grantee official.

§ 97.219 Annual competition.

(a) At the discretion of the Secretary, a section 303 sponsor which has obtained a grant on the basis of competition may receive a grant for the following program year without competition.

(b) No grant shall be operated in any State or area for a period of more than two years without recompetition.

(c) Target areas open for competition will be announced by the Secretary.

§ 97.220 Modifications.

(a) *Major modifications.* (1) A major modification to the grant is required under any of the following conditions:

(i) change in duration of the grant;

(ii) change in grant allotment;

(iii) change in the assurances and certifications;

(iv) substantial change in program design and/or program goals defined as follows:

(A) When the cumulative number of participants to be served, planned enrollment levels for program activities, planned placement terminations, or participants to be served is to be increased or decreased by 15 percent or more.

(B) When the cumulative transfer of funds among program activities or cost categories exceeds $10,000 or 5 percent of the total grant budget whichever is greater; except as provided in § 97.255 (e)(5).

(C) When the program design is altered significantly such as when there is a change from the approved plan in the allowance payment system including but not limited to, the conditions of waiver or when there are changes in program design including but not limited to changes in the design in program activities or changes in target area(s).

(D) When the sponsor adds or terminates any subgrantee, contractor, or program operators.

(v) at the initiation of the Secretary as necessary after consultation with the grantee to assure compliance with the regulations and the approved plan and/or to insure responsiveness to changing economic conditions.

(2) Major grant modifications will not be initiated solely to adjust planned performance to meet actual performance.

(3) Prior approval of the Secretary is required for items covered in (a)(iv)(A), (B), (C), (D) of this section

(b) *Format.* Major modifications shall consist of the following:

(1) Revised Program Planning Summary Budget Information Summary for current and future quarters and a narrative explanation of the proposed changes as appropriate to the Secretary with a copy to the appropriate Regional Administrator.

(2) Each request for a modification must contain adequate documentation and analysis to support the request.

(3) Revised signature sheet.

(c) *Minor Modifications.* A sponsor may make any change in its Program Planning Summary, Budget Information Summary, or narrative description which is not set out in paragraph (a) of this section without prior approval, but must

show any such change in the first Program Status Summary or Financial Status Report as appropriate submitted to be Department after the change has been made. At the same time this report is submitted, an updated Program Planning Summary or Budget Information Summary shall also be submitted to the Secretary with a copy to the appropriate Regional Administrator; only those lines and columns affected by the modification need to be shown.

PROGRAM OPERATIONS

§ 97.230 General.

Sections 97.230–97.237 set forth the program operation requirements for grantees under section 303. The utilization of funds under section 303 is conditioned upon adherence to the Act, terms and conditions of the grant, the regulations under the Act and other applicable law.

§ 97.231 Basic responsibilities of grantees under section 303.

A grantee shall be responsible for: (a) Compliance with plans and assurances, Grant Conditions, and official written communications from the Department;

(b) Compliance with the Grant Administration sections of this Subpart C;

(c) Designing training which is, to the maximum extent feasible, consistent with every participant's fullest capabilities and will lead to employment opportunities enabling every participant to become economically self-sufficient.

(d) Designing program activities which will, to the maximum extent feasible, contribute to the occupational development and upward mobility of every participant;

(e) Providing services only to eligible farmworkers as defined in § 97.232 and their dependents;

(f) Providing training only to participants who are legally able to accept employment in the occupation for which training is being provided;

(g) Advising every participant of his or her rights and responsibilities prior to entering the program and granting the opportunity for an informal hearing as provided in § 97.234; and

(h) Making maximum efforts to achieve the goals set forth in the Program of Work.

§ 97.232 Eligibility for participation in section 303 programs.

(a) Eligibility for participation in section 303 programs is limited to farmworkers and their dependents who have, during the 18 months preceding their application for enrollment: (1) Received at least 50 percent of their total earned income as agricultural workers during any consecutive 12 month period (time spent and income earned by individuals while employed in food processing establishments shall be counted as agriculture-related employment for eligibility purposes provided that the person spends at least 50 percent of his/her employment time in farmwork or derives at least 50 percent of his/her income from farmwork as defined in § 97.203); and

(2) Been employed in agriculture on a seasonal basis; and

(3) Been identified as economically disadvantaged as defined below:

(i) Member of a family which receives cash welfare payments; or

(ii) Member of a family whose annual family income in relation to family size does not exceed the poverty level determined in accordance with criteria established by the Office of Management and Budget (OMB). The "nonfarm family" tables shall be used in determining the poverty level for farmworker families.

(b) It shall be the responsibility of the grantee to establish the necessary procedures to ensure that participants meet the above eligibility criteria. Application forms will be completed for all participants, and the forms must contain sufficient information to determine whether or not the applicants meet the prescribed eligibility criteria.

(c) Citizenship shall not be used as a criterion to prevent persons from participating in a program. However, program participants shall be limited to nationals of the United States and aliens who have been accorded the privilege of residing in the United States as lawful permanent residents or are otherwise legally available for work in the United States.

(d) Participants in programs authorized under CETA Titles I, II, and VI and under other sections of Title III who met the eligibility criteria for section 303 at the time of their enrollment may also be transferred into or enrolled concurrently in the section 303 programs. Section 303 participants who met eligibility criteria for Title I at the time of their enrollment may also be transferred into or enrolled concurrently in the Title I program (§ 95.32(f) of this title).

(e) No section 303 service shall be provided to persons violating the terms of the Farm Labor Contractor Registration Act of 1963 as amended (Pub. L. 88–582, 78 Stat. 920, as amended by Pub. L. 93–518, 88 Stat. 1652).

§ 97.233 Types of program activities available.

(a) A grantee may provide any type of activity consistent with the purpose of section 303 of the Act. Such activities include, but are not limited to the placement of farmworkers and their dependents in jobs above the poverty level, training, education, and other services needed to enable a farmworker to improve his or her well-being and economic self-sufficiency. A program funded under section 303 may include any activity described in paragraph (c) of this section.

(b) A program funded under section 303 may not utilize section 303 funds to implement public service employment programs as described in Part 96 and 99 of this title or to publish a newsletter in violation of the provisions of § 98.23 of this Subtitle.

(c) The basic types of program activities available to a sponsor include, but are not limited to the following: (1) *Classroom training.* (i) This program activity is any training conducted in an institutional setting designed to provide individuals with the technical skills and information required to perform a specific job or group of jobs. It may also include training designed to enhance the employability of individuals by upgrading basic skills, including GED (General Education Development) opportunities to earn the equivalent of a high school diploma for farmworkers who dropped out of school; and the provision of other courses, for example, remedial education. Grantees whose target populations include a significant number of persons of limited English-speaking ability should include provisions for training in the primary language of such persons and/or training in English-as-a-second language or both.

(ii) Occupational training shall be designed for occupations in which skills shortages exist (section 105(a)(6)) and for which there is reasonable expectation of employment (section 703(10)). In making these determinations, a grantee shall utilize available community resources such as the local SESA office, the National Alliance of Businessmen, and similar organizations.

(iii) Allowances. Allowances and other benefits shall be provided in accordance with § 97.256.

(iv) Training agreements. Vocational classroom training may be supported with section 303 funds. In order to obtain such classroom services, grantees may negotiate either financial or nonfinancial agreements on either a class size or individual referrals basis with local educational institutions or boards.

(2) *On-the-job training.* (i) On-the-job training (OJT) is training conducted in a work environment designed to enable individuals to learn a bonafide skill and/or qualify for a particular occupation through demonstration and practice. Such training should be conducted on a "hire first, train later" basis, or with reasonable assurance of ultimate placement with an employer other than the training organization. Training shall be designed to lead to the maximum development of participants' potentials and to their economic self-sufficiency.

(ii) Inducements to employers. Grantees may provide payments or other inducements to public or private employers for the bona fide training and related costs of enrolling individuals in the program; provided that payments to employers organized for profit are only made for the costs of recruiting, training, and supportive services which are over and above those normally provided by the employer. Use of a formula which incorporates the trainee's wage as a factor and fixed unit cost contracting are acceptable methods of reimbursement to private-for-profit employers for extraordinary training costs associated with providing on-the-job training. When using a formula, the sponsor can reimburse the employer for extraordinary training costs for training on-the-job, up to a level not to exceed 50 percent of entry

level wages. Sponsors may design other methods of cost reimbursement provided that payments reflect only extraordinary training costs. However, use of designs other than the 50 percent method require prior approval of the Secretary.

(iii) Direct subsidization of wages for participants employed by private employers organized for profit is not an allowable expenditure (section 101(5)).

(iv) Labor organization consultation. Appropriate labor organizations shall be consulted in the design and conduct of on-the-job training programs where collective bargaining agreements exist with the employer.

(v) Participant benefits. Wages and other benefits provided to OJT participants shall be in accordance with conditions specified in § 97.257.

(3) *Work experience.* (i) (A) Work experience is a short-term and/or part-time work assignment with a public employer or a private non-profit employing agency and is designed to enhance the employability of individuals who have either never worked or who have not been working in the competitive labor population for an extended period of time, i.e., new or recent entrants into the labor force. The work experience activity is designed to increase the employability of such individuals by providing them with experience on a job, an opportunity to develop occupational skills and good work habits and an opportunity to develop specific occupational goals through exposure to various occupational opportunities.

(B) In addition, work experience may include a short-term work assignment while an appropriate classroom training or on-the-job training opportunity funded under this Act is being developed. Sponsors should limit the participation of individuals placed in work experience while an appropriate activity is being developed to 90 working days.

(C) Participation in work experience for purposes other than that indicated in paragraph (c)(3)(i)(B) of this section shall be for a reasonable length of time determined in accordance with the needs of the participant.

(D) Except as provided above, the participation in work experience of individuals whose only manpower need is for employment, e.g., unemployed individuals who have occupational skills and good work habits, is generally inappropriate.

(ii) Sponsors shall describe in their Comprehensive Plan for Farmworkers the basic design of their work experience activity, including the characteristics of participants who will participate in the work experience activity, the objectives of the activity and the duration and planned outcomes of work experience.

(iii) Work experience activities for youth include part-time employment for students attending school, short-term employment for students during summer, short-term employment for out-of-school youth adjusting to a work setting and in transition from school to employment, short-term employment for those youth who have no definite occupational goal, and short-term or part-time employment for youth for whom no training or job opportunity immediately exists.

(iv) Work experience for adults includes part-time or short-term employment for the chronically unemployed, retired persons, recently discharged military individuals, handicapped individuals, institutional residents and inmates and others who have not been working in the competitive labor population for extended periods of time.

(v) Sponsors shall periodically review the progress of each work experience participant to determine whether continued participation in work experience, transfer to another activity, placement in unsubsidized employment or some other action is most appropriate. The sponsor shall make this determination based on whether the purposes of the work experience activity described in paragraph (c)(3)(i) of this section have been achieved.

(vi) Program outcomes for work experience participants include (A) return to school; (B) enrollment in post-secondary education; (C) enlistment in the military services; (D) enrollment in manpower training and (E) placement in subsidized or unsubsidized employment.

(vii) Work experience in the private for profit sector is prohibited.

(viii) Participant benefits. Each participant in a work experience activity shall receive wages. Wages shall be commensurate with such factors as the type of work performed, the geographic region of the program, and the skill proficiency of the participant with such factors as the type of work performed, the geographic region of the program, and the skill proficiency of the participant.

(A) In no event shall the rate be less than the highest of the following: (*1*) The minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, except as provided in paragraph (B) below.

(*2*) The minimum wage prescribed by State or local law for similar employment;

(*3*) For participants on Federally funded or Federally assisted construction projects, the prevailing rate established by the Secretary, in accordance with the Davis-Bacon Act, as amended, when such rates are required by the Federal Statute, other than CETA, under which the assistance was provided.

(B) Wages in the Commonwealth of Puerto Rico shall be consistent with provisions of Federal, State or local law otherwise applicable.

(C) Participants in work experience activities shall be provided workmen's compensation and other fringe benefits as specified in § 97.257.

(ix) Work experience participants may be outstationed at worksites, including Federal agencies and private nonprofit agencies. Outstationed participants are still to be considered employees of the sponsor and shall be assured of the same working conditions and benefits, as specified in § 97.257 as received by other similarly employed employees of the sponsor (not the outstationed worksite).

(4) *Services to participants.* This program activity is designed to provide those services which are needed: (i) To enable farmworkers and their dependents to obtain or retain employment or to participate in other program activities leading to their eventual placement in unsubsidized nonseasonal agricultural employment; or

(ii) To assist those farmworkers, who remain as seasonal agricultural employees, in improving their well-being.

(iii) Such services may include, but are not limited to, the following:

(A) Services to applicants

(*1*) Outreach;

(*2*) Intake: This includes screening for eligibility, the initial assessment process to determine whether the program can benefit the individual and to determine the appropriate manpower activity to which the individual should initially be referred, a determination as to the availability of an appropriate manpower activity; a decision on selection; and dissemination of information on the program;

(B) Manpower Services

(*1*) Orientation;

(*2*) Counseling: This includes employment related counseling, testing, and vocational or career exploration;

(*3*) Referral to non-303 funded training and placement;

(*4*) Job development

(*5*) Job placement;

(*6*) Follow-up.

(C) Supportive Services (Training and non-training related).

(*1*) Health and medical services;

(*2*) Child care: Day care program shall meet Federal interagency Day Care Standards and comply with applicable state standards including state licensing requirements.

(*3*) Transportation;

(*4*) Emergency assistance;

(*5*) Relocation assistance;

(*6*) Residential support;

(*7*) Nutritional services;

(*8*) Assistance in securing bonds;

(*9*) Referral to non-303 funded supportive services

(*10*) Family counseling;

(*11*) Family planning services. Provided that such services are made available only on a voluntary basis and are not to be a prerequisite for participants in or receipt of any service of benefit from the program; and

(*12*) Legal Services.

(D) Post-placement service. Manpower and supportive services as described in paragraphs (4)(iii)(A) and (B) of this section may be provided as appropriate to terminated participants who have been placed in unsubsidized employment. These services shall be provided at the discretion of the grantee and shall enable the terminated participant to retain employment. Such services may be provided during the 30-day period following a participant's termination from the program.

(E) Participant benefits. Allowances as described in § 97.256 may be paid to par-

ticipants enrolled in manpower services as described in this paragraph (4) (iii) of this section when such services are a component of another activity as described in § 97.233 or when such services are provided on a regularly scheduled basis.

(5) Other activities. (i) These activities are manpower activities which are not described in the categories above or manpower-related activities designed to enhance the economic self-sufficiency of individuals who are eligible to participate in programs funded under section 303. This activity includes, but is not limited to high school equivalency programs and to tuition assistance projects (extended tuition support programs and other opportunities in post-secondary education). No individual may be a participant in a tuition support program for more than two years.

(ii) The approved Comprehensive Plan for Farmworkers must describe the basic design, and provide performance standards and a detailed budget for each of the "Other Activities" to be undertaken.

(iii) Participant benefits. Allowances as described in § 97.256 may be paid to a participant enrolled in "Other Activities" as described in paragraph (5) of this section when such activities are a component of other activity described in § 97.233 or when such activities are regularly scheduled and are described in the approved Comprehensive Plan for Farmworkers.

(6) Combined activities. A participant enrolled in any activity funded under the Act may be enrolled simultaneously in any other activity as a component of the participant's primary activity. The primary activity constitutes any activity in which the participant is enrolled for more than 50 percent of the scheduled time.

§ 97.234 Complaint procedure.

(a) Each grantee shall establish a complaint or grievance procedure for resolving any issue arising between it (including any subgrantee or contractor) and a participant or an individual denied participation under section 303.

(b) Such procedure shall include an opportunity for an informal hearing, and a prompt determination of any issue which has not been resolved in an informal manner. When the grantee proposes to take an adverse action against a participant, such procedures shall also include a written notice setting forth the grounds for any adverse action proposed to be taken by the grantee and giving the participant an opportunity to respond. Final determinations made after an opportunity to respond shall be so identified and provided to the participant in writing.

(c) Any person subject to the issue resolution requirements of this section may initiate the procedures provided in § 97.291(b) only after all remedies provided under paragraphs (a) and (b) of this section have been exhausted.

§ 97.235 Training for low wage industries; relocation of industries.

No participant may be enrolled in any activity or service under this Act in any low wage industry in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high, nor may any authority conferred by this Act be used to assist in any relocation of an establishment from one area to another unless the Secretary determines that such relocation will not result in an increase in unemployment in the area of original location or any other area where the business entity conducts operations (sec. 704(a)).

§ 97.236 Cooperative relationships between grantee and other manpower agencies.

(a) Each grantee shall, to the extent feasible, establish cooperative relationships or linkages with other manpower and manpower-related agencies in the area within its jurisdiction, in particular, with agencies operating programs funded through the Department (sec. 105(a)(3)(D)), e.g., Job Corps. Grantees shall document linkages with other agencies. Documentation may include, but not be limited to, written memoranda of understanding, written agreements, or contracts and shall be available to the Secretary upon request.

(b) The establishment of such cooperative relationships or linkages shall include, at a minimum, contacting all appropriate Title I Prime Sponsor(s), SESA's, and farmworker programs, if any, in the target area prior to implementing the section 303 program of services and developing working relationships with them.

(c) Grantees shall, to the extent feasible, notify the appropriate apprenticeship agency of training activities in apprenticeable occupations (sec. 105(a)(3)(D)).

(d) Any grantee which intends to provide services under the Act to recipients of Aid to Families with Dependent Children (AFDC) should coordinate such services with the local sponsor of the Work Incentive Program, if any, to assure that the delivery of services under this Act is consistent with the WIN requirements. The provision of comprehensive manpower services to recipients of AFDC who are required to register for the WIN program may be affected by provisions of Title IV of the Social Security Act. Limitations on length of training, requirements to accept work in lieu of training, and other regulatory requirements may affect the AFDC recipient's participation in programs under the Act.

§ 97.237 Performance standards.

(a)(1) The purpose of this section is to establish comparative standards of performance for projects and activities funded under section 303. The Secretary will develop comparative performance standards, which will set national guidelines to serve as bench marks for the development and negotiation of individual grant performance standards in the grant agreement. The comparative performance standards will include, but are not limited to, the standards set forth in paragraph (b) of this section. The Secretary shall apply these standards when evaluating the quality and effectiveness of the components of section 303 programs.

(2) The performance standards contained in the individual grant agreement shall constitute the performance standards for that grant. For those projects and activities for which no comparative performance standards are provided in paragraph (b) of this section, the grant agreement shall specify levels of performance. Individual grants may include performance standards, developed by the grantee and approved by the Secretary, which will be in lieu of one or more of the comparative performance standards set forth in paragraph (b) of this section. In addition, the comparative performance standards are not intended to cover fully the requirements of local program operations so that most grant agreements should contain additional performance standards tailored to the specific goals and objectives of that grant. If the grant agreement does not contain performance standards, any comparative performance standard(s) applicable to the program activity or service funded shall apply after such standards are published in the FEDERAL REGISTER.

(3) Grantees shall maintain the documentation necessary for adequate demonstration of actual performance. This documentation shall be made available to the Secretary for the purposes of monitoring, evaluation, and auditing.

(4) It is the responsibility of the grantee to notify the Secretary if the grantee anticipates that performance standards may not be met and to request technical assistance in a timely manner. In order to do so, a grantee shall establish at least quarterly bench mark projections which will enable it to predict the likelihood of meeting its applicable performance standards.

(b) *Comparative performance standard for programs funded from allocable funds.* (1) *Administration.* Cost for administration not to exceed 20 percent of the total amount of the grant.

(2) *Referral.* (i) 100 percent of the goal identified in the grant achieved.

(ii) Followup completed on 85 percent of all those participants referred to other agencies for services.

(3) *Training and employment.* (i) 100 percent of enrollment, and referral goals identified in the grant achieved.

(ii) 80 percent of placement goals identified in the grant achieved.

(iii) 100 percent of all placements will be employed at a wage at or above the Federal or State minimum wage, whichever is higher.

(iv) 90 percent of all placements will be employed at a wage at or above the

prevailing rate for the particular occupation in the geographic area.

(v) 75 percent of those placed continue to be on the job 90 days after placement in unsubsidized employment.

(4) *Classroom training and on-the-job training.* (i) 100 percent of enrollment goals identified in the grant be achieved.

(ii) 90 percent of enrollees in classroom training and on-the-job training and their families receive services.

(iii) 60 percent of those enrolled in classroom training are placed in unsubsidized employment after training either by their own efforts or through program efforts.

(iv) 75 percent of those placed in on-the-job training continue to be on the job 90 days after the completion of their training period.

(v) At least one-third of classroom training and OJT enrollees are placed in jobs paying at least $1.00 per hour above the Federal or State minimum wage, whichever is higher.

(5) *Day care.* (i) 90 percent capacity is maintained.

(ii) Cost per child for day care operations serving 0–5 year old children for an extended day of more than 8 hours of operation do not exceed a total cost of $200 per month. This cost will be based on total cost of operation including funds from sources other than section 303 grants.

(iii) Day care programs shall meet Federal Interagency Day Care Standards and comply with applicable State standards including State licensing requirements.

(6) *Medical services.* Average cost per family not to exceed $250. This average cost is obtained by dividing the amount of funds available for this service by the number of families receiving this service. The maximum cost for any single family not to exceed $500.

(7) *Emergency assistance.* Average cost per family not to exceed $75. This average cost is obtained by dividing the amount of funds available for this service by the number of families receiving this service.

(8) *Relocation assistance.* Average cost per family not to exceed $600. This average cost is obtained by dividing the total amount of funds allowable for this component (set forth in the definition of relocation assistance in § 97.203) by the number of families in the relocation component. The maximum cost for any single family not to exceed $1,000.

(9) *Residential Support.* Average cost per family not to exceed $500. This average cost is obtained by dividing the total amount of funds allowable for this component (set forth in the definition of residential support in § 97.203) by the number of families in the residential component. The maximum cost for any single family not to exceed $700.

GRANT ADMINISTRATION

§ 97.250 Grant Administration in general.

(a) Sections 97.250–97.273 describe Federal requirements relating to the administration by grantees of grants under section 303 of the Act.

(b) In general, administration of section 303 grants shall be governed by Part 98, Subpart A, "Grant Administration," of this Subtitle.

(c) Sections 97.251, 97.262, and 97.270 relate to grantees which are nongovernmental organizations and set forth requirements applicable only to such organizations. Sections 97.252, 97.260, and 97.263, 97.269 set forth exception and variations from 29 CFR Part 98, Subpart A, which are applicable to all section 303 grantees. Sections 97.261 and 97.269 (b)–97.272 provide additional grant administration requirements applicable to all section 303 grants.

(d) In Part 98, Subpart A of this Subtitle, (1) All reference to the "RA" shall read "the Secretary" when applicable to section 303 programs.

(2) FMC 74–4 and FMC 74–7, designed for public agencies, are hereby made applicable to private nonprofit section 303 grantees. At such time that GSA issues comparable FMC's for private nonprofit organizations, they shall supersede the above Federal Management Circulars.

§ 97.251 Private nonprofit organizations; financial management systems.

For private nonprofit organizations the requirements for financial management systems set forth in § 98.5 of this Subtitle shall apply in their entirety, and in addition the following requirements shall be observed:

(a) *Certification of accounting systems.* Before funds are released to a grantee receiving an initial DOL grant or to a grantee any of whose nongovernmental subgrantees has never administered DOL funds the grantee shall submit a statement to DOL certifying that its accounting system and/or that of the subgrantee(s) meets the standards set in paragraphs (1), (2), and (3) of this section.

(1) Prior to the release of funds of an initial DOL grant, the grantee shall have its accounting system surveyed and evaluated by an auditor. On the basis of the auditor's findings and conclusions, the Secretary shall determine whether the accounting system meets DOL's standard and, if not, whether to suspend the grant.

(2) The accounting system certification shall state that the grantee and/or the subgrantee(s) have established adequate accounting systems with appropriate internal controls to safeguard assets, to check the accuracy and reliability of their accounting data, to promote operating efficiency, and to encourage compliance with prescribed management policies and any additional fiscal responsibilities and accounting requirements established by DOL.

(3) The certification may be furnished by an independent certified public accountant, or an independent state-licensed public accountant.

(b) *Subgrantees.* A grantee shall not release or commit any grant funds to a new subgrantee unless it has received from the proposed subgrantee an accounting system certification appropriately modeled after those required in paragraphs (a) (1), (2) and (3) of this section. These certifications are to be obtained by the grantee from its subgrantees for retention among the grantee's records and need not be transmitted to DOL unless DOL requests them. DOL may disallow as a charge against the grant any funds released in violation of the requirement stated in this paragraph.

(c) The cost incurred by the grantee or subgrantee in providing certifications of accounting systems is not an allowable cost under section 303 unless such cost is approved as part of the Comprehensive Plan for Farmworkers.

§ 97.252 Audit.

The requirements for audit shall be as described in § 98.6 of this subtitle, except that the following special provisions shall apply:

(a) The term "prime sponsor" in § 98.6 of this Subtitle for the purposes of section 303 shall mean grantee.

(b) The requirement for access to books, documents, papers, and records described in paragraph (a) of § 98.6 of this Subtitle shall apply to all section 303 grantees, subgrantees, contractors and other program operators.

(c) (1) Audits conducted under the provisions of § 98.6(e) of this Subtitle shall be subject to prior approval by the Secretary. (2) The reference to every "two years" in § 98.6(e)(2) for the purposes of section 303 shall read "every year." (3) The cost of "$100,000" in § 98.6(e)(2) for the purposes of section 303 shall read "$25,000."

§ 97.253 Reporting requirements.

"Reporting requirements in general," set forth in § 98.7 of this Subtitle shall be superseded as follows:

(a) Each grantee will be required to submit four periodic reports which will be used by the Secretary to assess its performance in carrying out the objectives of the Act. These four reports are: (1) The Program Status Summary; (2) The Financial Status Report (These two reports replace the Quarterly Progress Report); (3) The Quarterly Summary of Participant Characteristics; and (4) The Report of Federal Cash Transactions. In addition, grantees may from time to time be required to prepare and submit reports requested by other Federal agencies for the performance of the legislative responsibilities of these agencies.

(b) In order to avoid duplication of payments by unemployment insurance and CETA programs, sponsors shall, upon request, provide SESA'S a current list of all CETA participants enrolled in their programs receiving wages.

(c) *Program Status Summary and Financial Status Report:* The Program Status Summary and Financial Status Report requirements set forth in § 98.8 (a) and (b) of the Subtitle shall be applicable.

(d) *Quarterly Summary of Participant Characteristics:* The Quarterly Summary of Participant Characteristics requirements set forth in § 98.9 of this Subtitle shall be applicable.

(e) *Report of Federal Cash Transactions:* The Report of Federal Cash Transactions requirement set forth in § 98.10 of this Subtitle shall be applicable.

(f) In addition, special reports may be required by the Secretary.

(g) The reports required by paragraphs (b) and (c) of this section shall be prepared to coincide with the ending dates of Federal Fiscal Year quarters. These reports shall be sent by the grantee to be received by the Secretary no later than 30 days after the end of the reporting period. If a grantee's grant period ends on a date other than the end of a Federal fiscal quarter, a fifth set of reports covering the entire grant period will be required.

(h) Accountability must be maintained by the grantee for each of the activities authorized under the various Titles of the Act. Therefore, separate reports will be required for the section 303 grants.

(i) The Secretary reserves the right to require the submission of these reports by grantees more frequently than quarterly in cases where there appears to be a major negative deviation from the Program Planning Summary or the Budget Information Summary.

(j) Detailed descriptions of the forms required by paragraphs (c) and (d) are in the Forms Preparation Handbook and supplement.

(k) All required reporting shall be submitted directly to the Secretary at the following address:

U.S. Department of Labor,
Employment and Training Administration,
Patrick Henry Building—Room 7122,
601 D Street, NW, Washington, D.C. 20213.
Attention: Chief, Division of Farmworker Programs.

Copies of the reports required by paragraphs (a), (b), (c), and (d) of this section shall be sent to the appropriate RA at the time of submission to the National Office.

§ 97.254 Reallocation of funds.

The requirements regarding reallocation of funds set forth in § 98.11 of this Subtitle shall be superseded as follows:

(a) *General.* The Secretary may reallocate funds from a grantee under the circumstances and in accordance with the procedures described in this section.

(b) *Reallocation based on nonperformance.* (1) When the Secretary considers through review of the grantee's reports, monitoring, or auditing of the program that its performance may be inadequate or that it may have failed to comply with the Act or regulations, notice shall be given and opportunity shall be allowed for an administrative review as provided in § 97.292.

(2) If the Secretary then decides to reallocate funds based on a ground set forth in paragraph (b)(1) of this section:

(i) The grantee's plan for the area shall be revoked in whole or in part;

(ii) No further payments shall be made under this Act to the grantee, to the extent which the Secretary deems necessary; and

(iii) The grantee shall be notified of the amount of funds which shall be returned from unexpended funds paid to the grantee during that fiscal year.

(3) The Secretary shall make provision for the reallocation of funds to be used by an alternative grantee to service the area which was served by the grantee before the reallocation or the Secretary may serve such an area directly.

(c) *Reallocation based on need.* (1) In a limited number of circumstances, the Secretary may determine that the unobligated portion of a grantee's grant shall be reallocated to another area because the funds are not needed where they were originally allocated.

(2) Before reallocating funds as set forth in paragraph (c)(1) of this section, the Secretary shall determine that:

(i) The grantee's plan will be carried out without expending all the funds previously made available for that plan; and

(ii) The excess funds identified under paragraph (c)(2)(i) of this section cannot reasonably be expected to be needed in the following grant period.

(d) *Reallocation.* When the Secretary determines that funds should be reallocated based on the criteria in paragraph (c) of this section, the following actions shall be taken:

(1) *Notice of intent to reallocate funds.* When the Secretary determines that a reallocation is appropriate, the grantee shall be notified of the proposed action to remove funds from the grant. The notice shall include the basis for the proposed reallocation.

(2) *Comments by grantee.* The grantee shall be invited to submit comments on a proposed reallocation of funds out of its area. These comments shall be submitted to the Secretary within 30 days of receipt of the notice. The Secretary shall consider these comments before making a final determination to reallocate.

(3) *Notification of final determination.* The Secretary shall notify the grantee of the final determination after reviewing any comments submitted by the grantee. A final decision to reallocate funds of a grantee shall be published in the FEDERAL REGISTER, and a modification of the grant shall be made.

(4) *Reallocation procedures.* In reallocating such funds to supplement other grants, the Secretary shall first consider the need for additional funds by other grantees within the same State. A decision to increase a grant with reallocated funds shall not be made without prior consultation with the grantee as to how the funds will be expended. Such a decision shall be published in the FEDERAL REGISTER with an announcement to the grantee(s) receiving additional allocations and the amounts.

(5) *Reallocated funds.* Reallocated funds shall not be considered allocable funds for the purpose of paragraph (c)(2) of § 97.204, the "hold harmless" provision.

§ 97.255 Allowable Federal costs.

The requirements regarding allowable Federal costs set forth in § 98.12 of this Subtitle shall be superseded as follows:

(a) *General.* Except as modified in these regulations, Federal funds granted under the Act may be expended only for purposes permitted under the provisions of Subpart 1–15 of Title 41 of the Code of Federal Regulations. 41 CFR 1–12.2 applies to educational institutions, and 41 CFR 1–15.7 applies to state and local governments. Allowable costs include both direct and indirect costs.

(1) *Direct and Indirect Costs.* Direct costs are those which can be identified specifically with a particular cost objective such as an organizational unit, function or object, as well as ultimate cost objectives including specific grants, projects, contracts, and other activities. Indirect costs are those costs of a grantee organization which are not readily identifiable with a particular function or project but nevertheless are necessary to the general operation of the grantee organization and the conduct of the activities it performs. Indirect costs are usually grouped into a common pool and distributed to those activities which benefit from them through the expedient of an indirect cost rate.

(2) *Policies and Procedures.* Cost allocation plans including indirect cost rate proposals shall be developed and approved in accordance with the applicable cost principles and procedures set forth in 41 CFR 1–3.7 and 41 CFR 1–15. Whenever costs jointly serve one or more CETA titles and CETA is the only source of funding, a cost allocation plan must be developed to allocate those costs among the title if these are shared services. These plans are to be used and retained for future audits. Where there are multiple sources of funding, such as other Federal programs or state or local funded programs simultaneously operated by the grantee organization, a cost allocation plan is necessary if there are shared services. This cost allocation plan must equitably allocate costs between the programs (and within the CETA program, among the various titles). All cost allocation plans must be approved in advance by the Secretary.

(b) *Restrictions on use of funds.* No funds granted under the Act may be used, directly or indirectly, as a contribution for the purpose of obtaining Federal funds under any other law of the United States which requires a contribution from the grantee in order to receive such funds, except if authorized under that law. However, the use of funds granted under one title of the Act as a matching contribution in order to obtain additional funds under another title of the Act is permitted.

(c) *Expenditures for repairs, maintenance and capital improvements and construction.* (1) Section 303 funds may not be expended for new construction (including additions to existing facilities) but may be expended for building

repairs, maintenance, and capital improvements to existing facilities. These costs must be related to a facility or building which is used primarily for programs under the Act (sec. 702(b)).

(2) No funds for new construction (including additions to existing facilities) are allowable except as a part of a training program in a construction occupation. Training costs may include such items as instructors' salaries, training tools and books, allowances or wages to participants (if appropriate) but may not include materials used in construction or land acquisition. Construction costs for training programs shall be allowable only when such construction would not normally be performed by an outside contractor.

(d) *Allowable cost categories.* Allowable costs shall be reported against the following cost categories: Administration; wages; training; fringe benefits; allowances; and services (sec. 101).

(1) Costs are allocable to a particular cost category to the extent of benefits received by such category.

(2) All grantees are required to plan, control, and report expenditures against the aforementioned cost categories.

(3) All grantees are responsible for assuring that subgrantees and contractors plan, control, and report expenditures against the aforementioned cost categories.

(4) When required by § 98.24 of this Part or State Unemployment Insurance Laws to pay unemployment insurance costs, sponsors shall plan for those obligations to be incurred during the grant year. This responsibility includes unemployment insurance charge which will be incurred by subgrantees and contractors because of unemployment insurance liabilities incurred under programs under the Act.

(e) *Classification of costs by category.* The following principles shall be followed in classifying costs by cost category:

(1) Participants' wages shall be charged to wages.

(2) Participants' fringe benefits shall be charged to fringe benefits (premiums for insurance with comparable coverage to workmens compensation for participants enrolled in classroom training and services to participants is considered to be a training or service cost as appropriate).

(3) Allowances paid to program participants shall be charged to allowances.

(4) Training costs consisting of goods and services which directly and immediately affect program participants shall be charged to training. Such costs should be those incurred for instruction of participants in either a work environment or classroom. Goods and services which have direct and immediate impact on participants are limited to those actually involved in the participant training process itself as opposed to those which are supportive of that process. For examples of training-related costs which may and may not be charged to training see paragraph (f)(4), Training.

(5) Supportive and manpower services costs which consist of goods and services which directly and immediately affect program participants shall be charged to Services. Goods and services considered to have direct and immediate impact on participants are limited to those actually involved in the process of providing participants with supportive and manpower services as opposed to those which are ancillary to that process. For examples of service-related costs which may and may not be charged to Services see paragraph (f)(5), Services.

(6) Administration costs shall consist of all indirect and direct costs associated with the management of the grant. Such costs are those which do not directly and immediately benefit participants but are necessary for effective delivery of direct participants benefits. These costs are generally identified with supervision, and management, fiscal and recordkeeping systems. These costs shall also include the administration costs both direct and indirect of subgrantees and contractors. For examples of administration costs see paragraph (f)(6), Administration costs.

(7) When contractors bill the grantee with a single unit charge containing costs which are chargeable to more than one cost category the grantee will endeavor to obtain the detail necessary to charge these costs to the proper cost categories. For unit charges such as tuition fees for which the necessary detail cannot be provided, an estimate of the breakdown of the single unit charge among cost categories will be obtained; except when such unit charges are normally billed as a single charge and the cumulate amount of the common charges such as tuition fees or doctors' bills do not exceed $25,000. These exempted charges do not need to be prorated among the benefitting categories but can be charged to the category receiving the most benefit. Any profit (or loss) should be prorated among all the affected cost categories.

(8) Classification of equipment costs present special problems since many items of equipment can be used for various purposes. In the case of multi-use equipment there must be a proration of cost, or, if there is a predominant usage relating to one cost category, a charge shall be made to that category.

(9) Any single cost such as staff salaries and/or fringe benefits which is properly chargeable to more than one cost category shall be prorated among the affected categories.

(f) *Costs allowable by each cost category.* Following are examples of costs properly chargeable to each of the cost categories.

(1) *Wages.* All wages paid to participants receiving on-the-job training in public or private nonprofit organizations, and all wages paid to participants in work experience will be allowed. Cost of living increases are considered wages. Wages paid to participants while receiving on-the-job training from a private employer organized for profit cannot be supported by funds under the Act (sec. 101(5)).

(2) *Fringe benefits.* Allowable fringe benefits costs for participants include but are not limited to the following: annual, sick, court and military leave pursuant to an approved leave system; employer's contribution for social security, employees' life and health insurance plans; unemployment insurance, worker's compensation insurance; and retirement benefits provided such benefits are granted as part of the approved Comprehensive Plan for Farmworkers. Unemployment insurance costs are allowable fringe benefits and shall be charged to the grant as they are incurred. Cost of living increases may not be charged to fringe benefits.

(3) *Allowances.* All allowances paid to program participants pursuant to § 97.256(a) shall be charged to this cost category.

(4) *Training.* Training costs include, but are not limited to the following: salaries, fringe benefits, equipment, and supplies of personnel engaged in providing training, books and other teaching aids; equipment and materials used in providing training to participants; classroom space and utilities costs; and that part of tuition and entrance fees which represent instructional cost having a direct and immediate impact on participants (see § 98.12(e)(7) for exceptions). The following are examples of costs not properly chargeable to training: General and administrative costs of the training facility, supervision, clerical support for non-instructors, and training (skill maintenance and upgrading) of instructors, staff travel except when such travel is an integral part of the instruction, costs of non-classroom space and utilities, transportation of participants to training sites, and cost of processing allowance payments. The compensation of individuals who both instruct participants and supervise other instructors must be prorated among the Training and Administration cost categories on the basis of time records or other equitable means. Similarly, tuition fees and the cost of supplies used in the course of both participant instruction and other activities should be prorated among the benefitting uses.

(5) *Services.* (i) Services include, but are not limited to services to applicants, manpower services and supportive services, as set forth in § 97.233(c)(4).

(ii) Services to applicants includes outreach, intake, and assessment.

(iii) Supportive services include child care, health care, medical and dental services, residential support, assistance in securing bonding, transportation, and family planning.

(iv) Manpower services include orientation, counseling, job development and job placement.

(iv) Allowable service costs include, but are not limited to, salaries and fringe benefits, space, utility, equipment and travel costs when an integral part of the job of personnel engaged in providing services to participants (e.g., job developers, counselors, and outreach workers); and that part of single unit charges for child care, health care, and other

services which represent only the costs of services directly beneficial to participant (see § 98.12(e)(7) for exceptions). Transportation of participants is properly chargeable to services.

(v) The following are examples of costs not properly chargeable to services: General and administrative costs of the services provided; supervision, clerical support, staff training, travel of supervisory staff, rent and other facilities costs except as provided for in (iv), and costs of supplies, materials, and equipment not used directly in providing services to participants.

(6) *Administrative Costs.* (i) Administrative costs shall be limited to those necessary to effectively operate the program. They shall not exceed 20 percent of the total planned costs for the entire grant unless such additional costs have been approved in writing by the Secretary. Consultant services under contract must have the prior approval of the Secretary.

(ii) Supportive costs are comprised of general and administrative costs, overhead, and similar cost groupings representing the general management and support functions of an organization as well as secondary management and support functions. Included are salaries and fringe benefits of personnel engaged in executive, fiscal, personnel, legal, audit, procurement, data processing, communications, transportation, maintenance, and similar functions, related materials, supplies, equipment, office space costs, and staff training.

(iii) Direct program costs which are not an integral part of training and services provided participants are comprised of goods and services which neither contribute to the management and support functions of an organization nor directly and immediately affect participants. Included are direct program salaries and fringe benefits of supervisory and clerical personnel, program analysts, labor market analysts, and project directors. In addition, all costs of materials, supplies, equipment, space, utilities, and travel which are identifiable with these direct program administration positions shall be charged to administration. Some examples of administrative costs are the salary of a clerical assistant to a supervisor, that part of an instructor's salary representing time spent supervising other instructors, desk-top supplies used by supervisors and in general office administration, rent, depreciation or maintenance of non-classroom space, staff training, consultants services under contract not involving direct training or services to participants, costs incurred in the establishment and maintenance of farmworker boards and advisory councils as provided in § 97.273 and costs of providing technical assistance to contractor and subgrantee staff.

(iv) Services normally chargeable to Administration when performed by staff personnel shall be charged to Wages or Fringe Benefits, as appropriate, when performed by program participants.

These services when performed by program participants, may not be paid by section 303 funds unless this use of participants' services has been described in the approved Comprehensive Plan for Farmworkers.

(g) *Travel costs.* (1) The cost of participant travel and staff travel necessary for the operation or administration of programs under the Act is allowable as provided herein.

(2) Travel costs of section 303 staff or board members are allowable only if the travel specifically relates to programs under section 303 and is within the CETA section 303 target area or for a Department sponsored or approved conference, meeting, etc. All other travel to be charged to the CETA section 303 grant shall require the prior approval of the Secretary. These costs shall be charged to administration.

(3) Travel costs of other grantee officials of multi-funded programs charged with overall grantee responsibilities (e.g., the Governor of a state or the chief executive of a political subdivision, or their immediate staff that do not have continuing programmatic responsibilities) are allowable if costs specifically relate to programs under the Act. Prior approval by the Secretary is not required. These costs shall be charged to administration.

(4) Travel costs for participants in administrative positions, are allowable when the travel is specifically related to the operation of programs under section 303. These costs shall be charged to administration.

(5) Travel costs, based on mileage, for participants using their personal automobiles in the performance of their jobs are allowable if the employing agency normally reimburses its other employees in this way. These costs shall be charged to fringe benefits.

(6) Travel costs to enable participants to obtain employment or to participate in programs under the Act are allowable as supportive services but shall be restricted to the grantee's jurisdiction or within daily commuting distance, unless part of an approved component in the Comprehensive Plan for Farmworkers.

(7) Travel policies set forth in the Standardized Government Travel Regulations (SGTR) are required of all grantees, subgrantees and contractors. Where a grantee, subgrantee, or contractor, has a more restrictive travel policy than the SGTR, the more restrictive requirements shall be followed.

(8) Other travel requirements may be issued by the Secretary for private nonprofit grantees.

(h) *Association Membership.* (1) CETA Section 303 sponsors are permitted to utilize grant funds to join those associations which provide bona fide, relevant technical and administrative services in support of Section 303 program efforts. The activities of such associations must be designed to contribute to the enhancement of professional and technical program knowledge.

(2) For membership dues or other membership-related costs to be allowable, the following conditions shall be observed: (i) The association's activities shall not violate the Anti-lobbying Act, 18 U.S.C. 1913, which prohibits organizations from using Federal funds "directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote, or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation. * * *"

(ii) The association shall not violate the principles contained in the assurances set forth in the Section 303 sponsor grant package regarding restrictions against political activities for Federal grantees.

(iii) Those organizations substantially involved in lobbying are inappropriate selections for membership by CETA Section 303 sponsors. (See 41 CFR 1-15.711-19.) However, affiliated associations which are offshoots of such lobbying organizations, and whose only activity is to foster information exchanges and professional growth, may be appropriate selections for membership, if it can be demonstrated that their activities are separate from the parent association, and that the affiliate association does not contribute to the support of the parent organization.

(3) Sponsors wishing to utilize grant funds for membership in associations must obtain the prior approval of the Secretary before initiating membership procedures. Sponsors should submit documents which show that the association meets the conditions set forth in this paragraph 97.255(h), as well as budget information detailing the sponsor's proposed costs related to the proposed membership.

(4) Sponsors who seek to join an association shall submit (or cause the association to submit) to the Secretary a copy of the corporate charters, bylaws, constitution, or any other pertinent official document which explains the purpose of the association and demonstrates that the association will not be involved in activities which would violate the standards set forth in this paragraph 97.255(h). In the case of an association that is affiliated with an organization which conducts lobbying or political activities, the documentation must demonstrate that the activities of the association to be joined are separate from those of the affiliated organization.

(5) When the use of grant funds for membership in an association has been approved by the Secretary for one Section 303 sponsor, the Secretary will announce the approval and it will thereafter be unnecessary for any other 303 sponsor to submit the documentation required by paragraph (4) above.

(6) Sponsor reviews will be conducted by the Secretary to determine that the purposes of such memberships are being carried out, and that program and operations are thereby enhanced.

(7) The cost shall be for Section 303 membership rather than an individual person's membership.

(8) The cost of the membership shall be reasonably related to the value of the services or benefits received. Sponsors are authorized to use up to one-tenth of one percent of their respective Section 303 allocations annually, with a maximum of $750.00 for association-related costs.

(9) Association-related costs shall be incorporated in the sponsor's Section 303 grant budget, charged to the administration category, and as such, shall be subject to the standard 20 percent overall grant administrative cost ceiling.

§ 97.256 Training allowances.

The requirements for training allowances shall be as described in § 95.34 of this subtitle with the following special provisions:

(a) The term "prime sponsor" in § 95.34 of this subtitle for the purpose of section 303 shall mean grantee.

(b) The requirements for eligibility for allowances described in § 95.34(c) of this subtitle for programs funded under section 303 shall read: "Subject to the provision of § 95.34(j) of this subtitle and § 97.233, allowances shall be paid to participants for time spent in classroom training. In addition, allowances may be paid for time spent in other activities as specified in § 97.233(c)(5) or manpower services such as orientation and counseling. However, allowances for participation in manpower services or other activities shall be provided only if such activities are a component of another activity described in § 97.233, or participation is on a regularly scheduled basis described in the approved Comprehensive Plan for Farmworkers. Furthermore, no allowances will be paid for any course having a duration in excess of 104 weeks (sec. 111(a))."

§ 97.257 Wages.

(a) Participants in work experience shall be paid wages as required by § 97.233(c)(3)(viii).

(b) Participants in on-the-job training shall be compensated by the employer at such rates, including periodic increases, as are reasonable considering such factors as industry, geographical region, and trainee proficiency (sec. 111(b)). In no event shall the rate be less than the highest of the following:

(1) The minimum wage rate specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. The exceptions to section 6(a)(1) shall not apply to on-the-job training participants, except as provided in paragraph (c).

(2) The State or local minimum wage for the most nearly comparable covered employment;

(3) The prevailing rates of pay for persons employed in similar occupations by the same employer; or

(4) The minimum entrance rate for inexperienced workers in the same occupation in the establishment or, if the occupation is new to the establishment, the prevailing entrance rate for the occupation among other establishments in the community or area or, any minimum rate required by an applicable collective bargaining agreement.

(5) For participants on Federally funded or Federally assisted construction projects, the prevailing rate established by the Secretary in accordance with the Davis-Bacon Act, as amended, when such rates are required by the Federal statute under which the assistance was provided.

(c) For hours spent in the production of goods or services, the rate of compensation to be paid to trainees by employers, public or private, shall be specified in a written agreement entered into by the training or employing facility and the prime sponsor.

(d) Wages in the Commonwealth of Puerto Rico shall be consistent with provisions of the Federal, State or local law, otherwise applicable.

§ 97.258 Minimum duration of training; reasonable expectation of employment.

(a) *Duration of training.* An individual shall not be referred for training in an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation (sec. 703(8)).

(b) *Reasonable expectation of employment.* An individual shall not be referred to training unless the grantee determines, after utilizing available and appropriate community resources, that there is a reasonable expectation of employment for such an individual in the occupation for which the person is being trained (sec. 703(10)).

§ 97.259 General benefits and working conditions for program participants.

(a) Each participant in an on-the-job training or work experience under the Act shall be assured of workmen's compensation benefits at the same level and to the same extent as other employees of the employer who are covered by a state or industry workmen's compensation statute. Participants engaged in any CETA program activity, i.e., work experience, on-the-job training, classroom training, services to participants and other activities where others similarly engaged are not covered by an applicable workmen's compensation statute shall be provided workmen's compensation insurance or coverage under a medical and accident insurance policy for injury or diseases resulting from such participation. The costs of such insurance shall be charged to the appropriate cost category as provided in § 97.255.

(b) Each participant in an on-the-job training or work experience, shall also be assured of health insurance, unemployment insurance, coverage under collective bargaining agreements and other benefits at the same levels and to the same extent as other employees similarly employed, and to working conditions and promotional opportunities neither more nor less favorable than such other employees similarly employed (secs. 208(a)(4), 703(5) and 703(6)). Nothing in this section shall be interpreted to require coverage for health insurance, unemployment insurance and similar benefits for participants, such as, work experience participants, where there is no employee of the employer performing the same or similar work in the employment situation. In determining whether the work is the same or similar to that of a person regularly employed, the prime sponsor will take into consideration, but shall not be limited to, employment status, type of work performed, job classification and method of appointment to the position.

(c) Every participant must be advised prior to entering employment of the name of his employer, and of his rights and benefits in connection with his employment (sec. 208(a)(8)).

(d) No participant will be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health or safety. In the case of participants employed or trained for jobs inherently dangerous, e.g., fire or police jobs, participants will be assigned to work in accordance with reasonable safty practices. The provisions of section 2(a)(3) of Fub. L. 89-286 (relating to health and safety conditions) shall apply to such programs or activity (secs. 208(a)(5) and 703(5)).

(e) The requirements for participants retirement benefits shall be as provided in § 98.25 of this subtitle.

§ 97.260 Allocation of Allowable Costs Among Program Activities.

The requirements regarding allocation of allowable costs among program activities set forth in § 98.13 of this subtitle shall be superseded as follows: The program activities against which program costs shall be planned, controlled and reported upon are: Classroom training; on-the-job training; work experience; services to participants; and other activities. The cost categories under each of these activities is defined in § 97.255(e). The extent to which these cost categories are chargeable to specific program activities is set forth below. Administration includes all allowable administrative costs directly associated with the program activity and a pro rata share of the grantee's administrative costs under section 303 not directly associated with any program activity.

(a) *Classroom training.* Cost categories chargeable are: administration, allowances, training, and services.

(b) *On-the-job training.* Cost categories chargeable are: administration, wages (with public or private nonprofit employers only), fringe benefits, training, and services.

(c) *Work Experience.* Cost categories chargeable are: administration, wages, fringe benefits, training, and services.

(d) *Services to participants.* (1) *Manpower services.* Cost categories chargeable are:

(i) Administration.

(ii) Allowances. This includes all allowances paid for short periods of time to participants who are registered for

training, but are waiting for startup of a component and includes additional allowances as described in § 97.233(f).

(iii) Services. This includes all manpower services including postplacement services which are not part of another program activity and which are provided to participants by a grantee, contractor, or subgrantee.

(2) *Supportive services.* These services include but are not limited to health and medical services, child care, emergency assistance, relocation assistance, residential support, nutritional services, and other supportive services. Cost categories chargeable are:

(i) Administration.

(ii) Services. This includes all supportive services, including postplacement services, which are not part of another program activity and which are provided to participants by a grantee, contractor, or subgrantee.

(e) *Other activities.* Cost categories chargeable are: administration, allowances, training and services.

§ 97.261 Bond coverage of officials.

(a) Prior to the release of funds to any grantee, public or private, DOL shall receive written assurance that arrangements have been made for appropriate bonding of grantee officials. This assurance may take the form of either a statement that no bond is needed because the conditions of paragraphs (b) have been met, or of a letter from a bonding company or agent stating the type of bond, amount and period of coverage, positions covered, and the annual cost of the bond which has been obtained.

(b) A bond need not be provided by a public grantee if funds are to be deposited in a public treasury and disbursed and audited by local and state public officials who normally perform these duties. In this case, the financial role of the officials of the grantee agency shall be limited to making withdrawals from the Federal Reserve System for deposit in the public treasury and certifying appropriate expenditures for disbursement. A grantee which is a public agency need not provide a new bond if all employees who are authorized to sign or countersign checks on the grantee's commercial bank account or to disburse cash are already bonded in an amount consistent with local requirements and practices.

(c) Private grantees shall take steps to secure blanket fidelity bond coverage in accordance with the following provisions:

(1) Coverage shall be secured in an amount equal to the average of funds to be expended each month, up to the aggregate amount of $25,000, whichever is less, for all persons authorized to sign or countersign checks or to disburse sizeable amounts of cash, such as for payrolls.

(2) Grantees shall assure that appropriate officials of subgrantees and contractors are bonded. Existing bond coverage on officials of subgrantees which are public agencies shall be considered acceptable. Coverage for officials of subgrantees and contractors which are private organizations shall be equal to the average of funds to be expended each month, up to an aggregate amount of $25,000. If a subgrantee or contractor will expend less than $1,000 per month in program funds, on the average, bond coverage shall not be required, but may be obtained and is an allowable cost.

§ 97.262 Basic personnel standards for grantees and subgrantees.

The basic personnel standards set forth in §§ 98.14, 98.21, 98.22, and 98.23 of this Subtitle shall be applicable to public grantees and to public subgrantees receiving section 303 funds. The following provisions shall be applicable only to private nonprofit grantees and to private nonprofit subgrantees receiving section 303 funds.

(a) *Personnel policies.* Each grantee and subgrantee shall maintain personnel policies and practices in accord with applicable laws and regulations, the provisions of §§ 98.21, 98.22, 98.23 of this Subtitle and the provisions of paragraphs (b) through (h) of this section. Such personnel policies must be in written form and available to the Secretary upon request.

(b) *Discrimination prohibited.* No grantee or subgrantee shall discriminate in its hiring and personnel procedures against any applicant for employment or any employee because of race, creed, color, national origin, sex, or age.

(c) *Opportunities for farmworkers.* Each grantee and subgrantee shall insure that its recruiting procedures afford adequate opportunity for the hiring and advancement of persons in the target population.

(d) *Prohibition against partisan political and sectarian activities.* In addition to the prohibitions described in § 98.23, of this Subtitle grantees and subgrantees shall assure that no program under section 303 involves sectarian activities and that neither section 303 funds nor the personnel employed in the program shall be engaged in the conduct of sectarian activities.

(e) *Nepotism.* The provisions of § 98.22 of this Subtitle shall apply to all grantees and subgrantees with the following special provision:

(1) The term "employed in an administrative capacity" in § 98.22(a) Subtitle for the purposes of section 303 shall mean employed in an administrative capacity or membership on a governing board.

(f) *Prohibition against acceptance of gifts and gratuities.* Employees of grantees and subgrantees shall not accept gifts, money, or gratuities from persons receiving benefits or services under the program, or performing services under contract, or otherwise in a position to benefit from an action of the grantee's employees.

(g) *Outside employment.* Grantees and subgrantees shall include the following provisions in their published personnel policies relating to outside employment of their employees: (1) Such employment shall not interfere with the efficient performance of the employee's duties in the DOL-assisted program;

(2) Such employment shall not involve a conflict of interest or conflict with the employee's duties in the DOL-assisted program;

(3) Such employment shall not involve the performance of duties which the employee should perform as part of employment in the DOL-assisted program; and

(4) Such employment shall not occur during the employee's regular or assigned working hours in the DOL-assisted program, unless the employee during the entire day on which such employment occurs is on annual leave, compensatory leave, or leave without pay.

(h) *Salaries and wages.* (1) Minimum wage: Employees shall be paid at a rate no lower than the applicable minimum wage. Subject to this minimum, the salary for each position supported by DOL funds shall accord with prevailing local practice for comparable positions in local public or private nonprofit agencies.

(2) Wage comparability: (i) Persons employed in carrying out programs financed under section 303 shall not receive compensation at a rate which is (A) in excess of the average rate of compensation paid in the area where the program is carried out to persons providing substantially comparable services; (B) less than the applicable Federal or State minimum wage rate, whichever is higher.

(ii) Some grantees or subgrantees are part of long-established private agencies which have merit systems and will apply these systems to section 303-supported employees. In these instances, all positions covered under such merit systems shall be deemed comparable and no extensive organizational reviews, position analyses, or comparability determinations shall be necessary; provided that these employees are filling positions or types of positions in existence before the agency or institution received a section 303 grant and that the salary scale has not been changed as a result of the grant.

(iii) Those grantees for which paragraph (h)(2)(ii) of this section is not applicable, shall establish wage rates for each section 303-supported position based upon a wage comparability study.

(3) *Salary and wage schedule.* Each grantee shall maintain an up-to-date salary and wage schedule. This schedule shall be based upon an up-to-date wage comparability study as described in paragraph (h)(2) of this section. Each position supported by section 303 funds shall: (i) be part of a salary and wage schedule which assigns a specific salary or wage range incorporating periodic increases to each position;

(ii) Be described in a written detailed job description identifying job functions and responsibilities;

(iii) Have specific qualifications required of each person to be hired into the position; and

(iv) Be distinguishable from every other position by reason of its responsi-

bilities, and job functions; Positions requiring higher salaries or wages shall include higher levels of responsibilities commensurate with the salary. All such materials shall be incorporated into personnel policies, procedures, and practice manuals.

(4) *Promotions and salary increases.* Each grantee shall maintain as part of its personnel policies and procedures and practices manual detailed proecdures for hiring new employees, promoting present employees and granting salary increases. Documentation shall be maintained for all such personnel actions to substantiate compliance with established procedures for all hires, promotions, and salary increases. Such documentation shall include identification of the procedures used to select new employees or promote present employees, and substantiation of the concerned individual's eligibility for such a personnel action.

(5) *Salaries over $20,000.* No employee engaged in carrying out program activities receiving financial assistance under section 303 shall be compensated from funds so provided at :. rate in excess of $20,000 per year, without approval from DOL. An employee subject to the provisions of salary proration in paragraph (h)(5) of this section shall not be compensated from funds so provided at a rate in excess of the prorated share of $20,000, without approval from DOL. Exceptions shall be granted by DOL in cases where, because of the need for specialized or professional skills or prevailing local salary levels, application of the foregoing restrictions would greatly impair program effectiveness or otherwise be inconsistent with the purposes to be achieved by the program.

(6) *Prorating salaries.* In cases where an individual performs functions under several grants, their time shall be prorated among the different grants and the portion of the salary charged to the section 303 grant shall not exceed the percentage of time spent performing section 303 functions.

(7) *Employee benefits.* Shall be established in accord with prevailing practice in comparable public or private nonprofit agencies.

(i) *Staff complaint procedures.* Each sponsor and subgrantee shall establish as part of their written personnel policies a staff complaint procedure for resolving any issue arising between it and a staff member hired with CETA section 303 funds. Such procedures shall include an opportunity for an informal hearing, and a prompt determination of any issue which cannot be resolved in an informal manner. When the sponsor (or subgrantee) proposes to take an adverse action against a staff member, such procedures shall require that a written notice be given to that staff member. The written notice shall set forth the grounds for any adverse actions proposed to be taken by the sponsor (or subgrantee) and give the staff member an opportunity to respond. Final determinations made after an opportunity to respond shall be so identified and provided to the staff member in writing.

§ 97.263 Non-Federal status of participants.

The requirements for this section shall be as described in § 98.28 of this subtitle.

§ 97.264 Grantee contracts and subgrants.

A grantee funded under section 303 may enter into contracts or subgrants under the provisions described in § 98.27 of this subtitle, except that the following special provisions shall apply:

(a) The procurement of contracts shall be in conformance with the standards in § 97.270.

(b) The requirements for cancellation described in § 98.27(e) of this subtitle for programs funded under section 303 shall read as follows:

If a contractor or subgrantee does not comply with any requirement of the Act, the regulations promulgated under the Act, other applicable law, the grant agreement, grant conditions, or other grant terms or conditions which the Secretary has issued or shall subsequently issue during the period of the grant, the grantee shall cancel the contract or subgrant. Cancellations of subgrants are major modifications as described in § 97.221 and require approval by the Secretary.

(c) The reference in § 98.27(g) of this subtitle of the provisions of § 98.15 and § 98.16 shall read "the provisions of §§ 97.265, 97.266, and 97.268."

§ 97.265 Adjustments in payments.

The requirements for adjustments in payments shall be as described in § 98.15 of this Subtitle, except that the following special provisions shall apply:

(a) The term "Comprehensive Manpower Plan" for the purposes of section 303 shall mean Comprehensive Plan for Farmworkers.

(b) The Secretary may also make adjustments in payments as described in § 97.267. The adjustments need not be based on a ground set forth in § 98.15(a) of this Subtitle.

§ 97.266 Termination of a grant.

The requirements for termination of a grant shall be as described in § 98.16 of this Subtitle, except that the following special provisions shall apply:

Section 98.16(a) shall be superseded as follows: If a grantee violates or permits a subgrantee or contractor to violate the regulations, grant conditions, or grant terms or conditions which the Secretary has issued or shall subsequently issue during the period of the grant, the Secretary may terminate the grant in whole or in part, unless the grantee causes such violation to be corrected within a period of 30 days after receipt of notice specifying the violation.

§ 97.267 Suspension and debarment.

In situations where there is adequate evidence that there has been substantial mismanagement of program funds under the Act, the Secretary may determine that a grantee be suspended from consideration for CETA section 303 funds. If suspension or debarment is proposed, the procedures set forth in the DOL Procurement Regulations, 41 CFR Subpart 29-1.6 will be followed.

§ 97.268 Grant closeout procedures.

The grant closeout procedures shall be as described in § 98.17, except that the following special provisions shall apply:

(a) Paragraphs (a), (b), and (c) of § 98.17 of this substitle shall apply in their entirety, and in addition the following special provisions shall apply:

(1) Any contracts or subgrants which extend beyond the termination date or completion of the legal grant period, as permitted by § 98.27(g) of this subtitle shall not exceed six months, unless the grantee has been notified of its selection as a potential grantee for the succeeding fiscal year.

(2) The Secretary may make adjustments in payments of the unexpended funds committed under contracts and subgrants described in paragraph (a)(1) of this section at any time between the completion or termination date of the grant and the termination date or completion of the subgrant or contract.

(b) § 98.17(d) of this subtitle shall be superseded as follows: Upon closeout, the Secretary will insure that:

(1) Prompt payment is made to the grantee for reimbursement of costs under the grant being closed out.

(2) After the final reports are received, a settlement is made for any upward or downward adjustments which are made to the Federal share of the costs, including those described in paragraph (a)(2) of this section.

(3) The letter of credit is cancelled unless the grantee is a potential grantee for the succeeding fiscal year.

(4) Final program and fiscal audits are performed as soon as possible after the completion or termination date of the grant.

§ 97.269 Maintenance and retention of records.

The requirements for the maintenance and retention of records shall be as described in § 98-18 of this subtitle, except that the following special provisions shall apply

(a) The requirement for maintaining information on the work history of participants shall not apply to participants who are minor children.

(b) The term "State and local prime sponsors" for the purposes of section 303 shall mean grantees.

§ 97.270 Program income and limitations on program expenditures.

(a) *Program income.* Section 98.19 of this title prescribes the requirements relating to program income applicable to public grants and subgrantees. The requirements for private grantees and subgrantees shall be as follows:

(1) Private organizations shall be required to return to the Federal Government interest earned on advances of grant-in-aid funds. Interest income shall be returned to the Secretary within 30 days after the end of each grant quarter.

(2) Proceeds from the sale of real and personal property, either provided by the Federal Government or purchased in whole or in part with Federal funds and royalties received from copyrights and patents during the grant period,

shall be handled in accordance with grant conditions the Secretary has issued or shall subsequently issue during the period of the grant.

(3) Program income earned during the grant period which has been included in the Comprehensive Plan for Farmworkers shall be retained by the grantee and, in accordance with the grant agreement, shall be added to funds committed to the project and be used to further program objectives. Expenditures of program income shall be subject to the provisions of this part. Further, program income shall be expended according to the provisions of the Title of the Act under which the income was generated. All other program income earned by the grantee shall be returned to the Federal Government, except as provided by grant conditions the Secretary has issued or shall subsequently issue during the period of the grant.

(4) The grantee shall record the receipt and expenditure of revenues as a part of grant project transactions.

(b) *Limitations on program expenditures.* Program expenditures shall not be made prior to the effective date of the grant period as set forth in the grant agreement or as subsequently modified by DOL. Expenditures made before such date shall be disallowed unless approved by the Secretary in advance. If the grantee incurs expenditures in excess of the total amount of the approved program, the amount of the overexpenditure shall be absorbed by the grantee from nonsection 303 funds.

§ 97.271 Procurement standards.

(a) The standards to be used for the procurement of supplies, equipment, and other materials and services by State and local governments with Federal grant funds shall be those described in § 98.20 of this subtitle.

(b) The standards to be used for the procurement of supplies, equipment, and other materials and services by private grantees and subgrantees shall be those described in the Federal Procurement Regulations, the Property Handbook for MA Contractors issued by the Department, and 41 CFR 1–5.2 or 41 CFR 1–15.3. On-the-job training contracts are not subject to sole source approval requirements and the procurement of subgrants is exempt from procurement requirements. When on-the-job training contracts are made, the grantees shall to be provided, and such record shall be available to the Secretary upon request. The foregoing standards are prescribed to assure that such materials and services are obtained in compliance with the provisions of applicable Federal laws and Executive Orders.

(c) The definitions of subgrant and contract described in § 98.20(a)(1) and (a)(2) of this subtitle shall also be applicable to grantees which are nongovernmental organizations.

(d) Sponsors shall obtain prior approval from the Secretary for all purchases of nonexpendable property as defined in the Property Handbook for MA Contractors.

§ 97.272 Labor standards.

All laborers are mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, or projects, buildings, and works which are federally assisted under a grant shall be paid wages at rates 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, as amended (40 U.S.C. 276a–5).

§ 97.273 Allowances and reimbursements for board and advisory council members.

(a) *General.* A reasonable allowance to members who attend meetings of any board, council, or committee, and reimbursement of actual expenses connected with those meetings are allowable costs; but grant funds shall not be used to pay such allowances to any individual who is a Federal, State, or local government employee, or to an employee of a grantee or subgrantee.

(b) *Allowances.* Any person who is a member of a private nonprofit grantee or subgrantee policymaking body or of a public agency grantee or subgrantee farmworker advisory council is eligible to be paid an allowance; provided (1) such person's family income falls within OMB Poverty Guidelines and (2) the person is not a Federal employee, an employee of a DOL-assisted organization, or an employee of a State or local public agency. Allowances shall not exceed five dollars per meeting, unless the grantee's chief elected official or governing board determines a higher payment more suitable. Allowances in excess of five dollars shall be approved in advance by DOL. No person shall be paid an allowance by any one DOL-assisted organization for attendance at more than two meetings per month, regardless of whether the meetings are for the same or different policymaking bodies.

(c) *Reimbursements.* (1) Any person, whose family income falls within OMB Poverty Guidelines and who is a member of a private nonprofit grantee or subgrantee policymaking body or of a public agency grantee or subgrantee farmworker advisory council shall be eligible for reimbursement of actual expenses, including actual wages lost up to $18 a day. Receiving an allowance shall not preclude receiving reimbursement for actual expenses incurred in attending that meeting.

(2) Where the community served by the program covers a large geographic area, as in the case of a multi-county or a statewide grantee, reimbursements may also be made to those nonpoor members of a policymaking body who must travel a substantial distance from their home to attend meetings within the community. The grantee's principal representative board shall determine what constitutes a "substantial distance" in its community.

(3) Persons may be reimbursed no more than two meetings per month. A grantee desiring to make reimbursement to an individual for more than two monthly meetings shall obtain the prior approval of DOL.

(4) The grantee shall define which expenses may be reimbursed, whether incurred as the result of actual attendance at meetings or in the performance of other official duties and responsibilities in connection with the program, and shall establish procedures for the reimbursement of such expenses. The grantee shall obtain the approval of the Secretary for such definitions and procedures prior to reimbursing any individuals under the provisions of paragraphs (c) (1) and (2) of this section.

(d) *Administrative cost:* Allowances and reimbursement as described in paragraphs (a), (b), and (c) of this section shall be charged to the cost category "Administration". Allowances and reimbursement cost for governing Boards and Advisory council should be prorated as administrative costs among all of the grants, from whatever source, administered by the grantee.

Assessment and Evaluation

§ 97.280 Assessment and evaluation.

Assessment and evaluation of section 303 programs shall be conducted in accordance with § 98.30 through § 98.33 of this subtitle. Moreover, the Secretary of Labor shall obtain the approval of the Secretary of Health, Education, and Welfare with respect to direct arrangements by the Secretary of Labor for the provision of basic education and vocational training. This approval shall focus on the legality and quality of such service arrangements as well as the relationships of such services to those being delivered under other applicable laws for which the Secretary of Health, Education, and Welfare is responsible (section 306 of the Act).

Administrative Review

§ 97.290 Purpose and policy.

Sections 97.290 through 97.292 set forth the procedures established by the Secretary for (a) the receipt, investigation, and determination of formal allegations of denial of services by a grantee or subgrantee to participants in a section 303 program or to any individual who may have been eligible for services under section 303; and (b) the review of Petitions for Reconsideration arising out of the procedures for determining potential grantees for allocable funds.

§ 97.291 Procedure for complaints by eligible individuals and program participants.

(a) *Grantee administrative remedies.* An individual denied services who may have been eligible, or an aggrieved participant in a program under section 303, must exhaust the administrative remedies established by the grantee for resolving matters in dispute prior to utilizing the procedures under this section. An individual denied service who may have otherwise been eligible or an aggrieved participant may initiate an action under this review procedure within 30 days of any final decision by a grantee.

The filing of a formal complaint under this section shall not be automatically act as a stay of the decision rendered by the grantee, but such decision may be stayed at the discretion of the Secretary.

(b) *Complaints: Filing of formal allegations; dismissal; form; contents of formal allegations, amendments; investigations.* Procedures for complaints filed pursuant to this section shall be as provided in § 98.42 through § 98.45 of this subtitle except that all formal allegations shall be filed with the Secretary and the term "Comprehensive Manpower Plan" for the purpose of section 303 shall mean Comprehensive Plan for Farmworkers.

§ 97.292 Procedure for complaints arising from the selection of potential grantees.

(a) *Administrative remedies.* Potential grantees shall be determined according to the procedures described in § 97.213 through § 97.215. An applicant which wishes to object formally to its nonselection as a potential grantee, after consideration by the Secretary as provided in § 97.214, may file a Petition for Reconsideration with the National Office within 14 days of the notification of the Department's decision not to award a grant. Reconsideration under this section will not be given to objections by potential sponsors regarding the subjects of negotiation listed in 97.217.

(b) *Petition for Reconsideration.* A petition for Reconsideration shall be a written statement by a responsible official of the complainant requesting a review of the nonselection and may enumerate the factors which the applicant asserts should be reviewed in reconsidering its Funding Request, but such enumeration is not required.

(c) *Reconsideration.* (1) Upon receipt of the Petition for Reconsideration, the Secretary shall, within 14 days, make one of the following determinations:

(i) That the organization be designated a potential grantee.

(ii) That the Granting Officer's decision be sustained.

(2) The representative of the Secretary responsible for resolution of the Petition for Reconsideration shall be an official of the Employment and Training Administration not directly involved in the original determination. The determination described in paragraph (c) (1) of this section shall be final.

Signed at Washington, D.C., this 4th day of January 1977.

WILLIAM H. KOHLBERG,
Assistant Secretary for Employment and Training.

[FR Doc. 77-602 Filed 1-6-77;8:45 am]

federal register

FRIDAY, JANUARY 7, 1977

PART V



DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTUCTION

General Wage Determination Decisions; Index

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.

Illinois:		
IL76–2121		Oct. 1, 1976.
IL76–2145		Dec. 3, 1976.
Louisiana:		
LA76–4187		Nov. 19, 1976.
Michigan:		
MI76–2139;	MI76–2140	Do.
Minnesota:		
MN76–2058		May 14, 1976.
Utah:		
UT76–5097		Nov. 5, 1976.

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 numbers are in parentheses following the numbers of the decisions being superseded.

Kentucky:		
KY76–1103	(KY77–1002)	Sept. 17, 1976.
Nebraska:		
NE76–4076	(NE77–4001)	Apr. 30, 1976.
Tennessee:		
TN76–1001	(TN77–1001)	Jan. 5, 1976.

Signed at Washington, D.C., this 30th day of December 1976.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2121 - Mod. #1					
(41 FR 43573 - October 1, 1976)					
Champaign & Vermilion Counties, Illinois					
CHANGE:					
Power Equipment Operators:					
Class I	$11.00	.40	.75		.13
Class II	10.95	.40	.75		.13
Class III	10.75	.40	.75		.13
Class IV	7.25	.40	.75		.13
Electricians:					
Champaign County	11.10	.40	1%+.30		.3%
Vermilion County	10.87	.40	1%+.30		.25%
DECISION #IL76-2145 - Mod. #1					
(41 FR 53251 - December 3, 1976)					
Champaign, Clark, Coles, Cumberland, DeWitt, Douglas, Edgar, Macon, Moultrie, Piatt, Shelby & Vermilion Counties, Illinois					
CHANGE:					
Power Equipment Operators:					
Remainder of Counties					
Class I	$11.00	.40	.75		.13
Class II	10.95	.40	.75		.13
Class III	10.75	.40	.75		.13
Class IV	7.25	.40	.75		.13
Electricians:					
Champaign Co; N. ½ of Douglas Co; Twps. of Blue Ridge, Sangamon & Monticello in DeWitt County	11.10	.40	1%+.30		.3%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #LA76-4187 - Mod. #2					
(41 FR 51288 - November 19, 1976)					
Statewide Louisiana					
Change:					
Boilermakers	$10.00	.50	1.00		.02
Electricians:					
Electricians:					
Zone 7	9.95	.85	1%		1%
Cable splicers:					
Zone 7	10.45	.85	1%		1%
Laborers (Highway Construction):					
Group 4:					
Zone 4	6.30	.15	.20		.05
Zone 5	4.85	.15	.10		.05
Line Construction:					
Zone 7:					
Linemen; Operators	9.95	.85	1%		1%
Cable splicers	10.45	.85	1%		1%
Groundmen	7.95	.85	1%		1%

DECISION #MI76-2139 - Mod. #3 (41 FR 51313 - November 19, 1976) Macomb, Monroe, Oakland, Washtenaw & Wayne Counties, Michigan	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Monroe County	$12.35	.50	1%+.35		.2%
Ironworkers:					
Remainder of Counties:					
Structural & Ornamental	10.43	8%	14%	17%	.09
Reinforcing	9.42	.98+.25	15%	15%	.07
Plasterers:					
South of Hwy. #151 in Monroe County	12.20	.65			.01
Plumbers & Steamfitters:					
Monroe County	10.28	.75	.70		.07
Sheet Metal Workers:					
Remainder of Counties	9.73	1.50	.91	1.07	.11
Sprinkler Fitters:					
Remainder of Counties	12.185	.60+.30	.90		.10
Laborers:					
Open Cut Construction					
Washtenaw County					
Class 1	7.14	.55	.35	.55	.04
Class 2	7.22	.55	.35	.55	.04
Class 3	7.27	.55	.35	.55	.04
Class 4	7.32	.55	.35	.55	.04
Class 5	7.37	.55	.35	.55	.04
Wayne, Oakland & Macomb Cos.					
Class 1	7.77	.70	.60	.75	.04
Class 2	7.85	.70	.60	.75	.04
Class 3	7.90	.70	.60	.75	.04
Class 4	7.95	.70	.60	.75	.04
Class 5	8.00	.70	.60	.75	.04
Monroe County					
Class 1	7.14	.55	.35	.55	.04
Class 2	7.24	.55	.35	.55	.04
Class 3	7.34	.55	.35	.55	.04
Class 4	7.39	.55	.35	.55	.04
Class 5	7.49	.55	.35	.55	.04

DECISION #MI76-2139 Mod. #3 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Tunnel, Shaft & Caisson Construction					
Washtenaw & Monroe Counties					
Class 1	$7.73	.55	.35	.55	.04
Class 2	7.81	.55	.35	.55	.04
Class 3	7.86	.55	.35	.55	.04
Class 4	8.01	.55	.35	.55	.04
Class 5	8.21	.55	.35	.55	.04
Class 6	8.46	.55	.35	.55	.04
Wayne, Oakland & Macomb Counties					
Class 1	7.77	.70	.60	.75	.04
Class 2	7.85	.70	.60	.75	.04
Class 3	7.90	.70	.60	.75	.04
Class 4	8.05	.70	.60	.75	.04
Class 5	8.25	.70	.60	.75	.04
Class 6	8.50	.70	.60	.75	.04

DECISION #MI76-2140 - Mod. #2
(41 FR 51318 - November 19, 1976)
Statewide, Michigan

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters - Zone 1	$10.48	.75	9%	11%	.04
Laborers:					
Open Cut Construction					
Zone 1					
Class 1	7.77	.70	.60	.75	.04
Class 2	7.85	.70	.60	.75	.04
Class 3	7.90	.70	.60	.75	.04
Class 4	7.95	.70	.60	.75	.04
Class 5	8.00	.70	.60	.75	.04
Zone 2					
Class 1	7.14	.55	.35	.55	.04
Class 2	7.22	.55	.35	.55	.04
Class 3	7.27	.55	.35	.55	.04
Class 4	7.32	.55	.35	.55	.04
Class 5	7.37	.55	.35	.55	.04
Zones 3 and 5					
Class 1	7.14	.55	.35	.55	.04
Class 2	7.24	.55	.35	.55	.04
Class 3	7.34	.55	.35	.55	.04
Class 4	7.39	.55	.35	.55	.04
Class 5	7.49	.55	.35	.55	.04
Zone 4					
Class 1	6.86	.55	.35	.55	.04
Class 2	6.96	.55	.35	.55	.04
Class 3	7.06	.55	.35	.55	.04
Class 4	7.11	.55	.35	.55	.04
Class 5	7.21	.55	.35	.55	.04
Zone 6					
Class 1	7.09	.55	.40	.55	.04
Class 2	7.19	.55	.40	.55	.04
Class 3	7.29	.55	.40	.55	.04
Class 4	7.34	.55	.40	.55	.04
Class 5	7.44	.55	.40	.55	.04

DECISION #MI76-2140 - Mod. #2 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Open Cut Construction					
Zone 7					
Class 1	$7.09	.55	.35	.55	.04
Class 2	7.19	.55	.35	.55	.04
Class 3	7.29	.55	.35	.55	.04
Class 4	7.34	.55	.35	.55	.04
Class 5	7.44	.55	.35	.55	.04
Zone 8					
Class 1	6.16	.55	.35	.55	.04
Class 2	6.26	.55	.35	.55	.04
Class 3	6.36	.55	.35	.55	.04
Class 4	6.41	.55	.35	.55	.04
Class 5	6.51	.55	.35	.55	.04
Zone 9					
Class 1	5.64	.55	.35	.55	.04
Class 2	5.74	.55	.35	.55	.04
Class 3	5.84	.55	.35	.55	.04
Class 4	5.89	.55	.35	.55	.04
Class 5	5.99	.55	.35	.55	.04
Zone 10					
Class 1	5.31	.55	.35	.55	.04
Class 2	5.41	.55	.35	.55	.04
Class 3	5.51	.55	.35	.55	.04
Class 4	5.56	.55	.35	.55	.04
Class 5	5.66	.55	.35	.55	.04
Zone 11					
Class 1	6.27	.55	.35	.55	.04
Class 2	6.37	.55	.35	.55	.04
Class 3	6.47	.55	.35	.55	.04
Class 4	6.52	.55	.35	.55	.04
Class 5	6.57	.55	.35	.55	.04

DECISION #MI76-2140 - Mod. #2 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Tunnel, Shaft & Caisson					
Zone 1					
Class 1	$7.77	.70	.60	.75	.04
Class 2	7.85	.70	.60	.75	.04
Class 3	7.90	.70	.60	.75	.04
Class 4	8.05	.70	.60	.75	.04
Class 5	8.25	.70	.60	.75	.04
Class 6	8.50	.70	.60	.75	.04
Zone 2					
Class 1	7.73	.55	.35	.55	.04
Class 2	7.81	.55	.35	.55	.04
Class 3	7.86	.55	.35	.55	.04
Class 4	8.01	.55	.35	.55	.04
Class 5	8.21	.55	.35	.55	.04
Class 6	8.46	.55	.35	.55	.04
Zone 3					
Class 1	7.68	.55	.40	.55	.04
Class 2	7.76	.55	.40	.55	.04
Class 3	7.81	.55	.40	.55	.04
Class 4	7.96	.55	.40	.55	.04
Class 5	8.16	.55	.40	.55	.04
Class 6	8.41	.55	.40	.55	.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MN76-2058 - Mod. #2					
(41 FR 20131 - May 14, 1976)					
Aitken, Anoka, Benton, Blue Earth, Carlton, Carver, Chisago, Cook, Crow Wing, Dakota, Dodge, Fairbault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Itasca, Jackson, Kanabec, Koochiching, Lake, LeSueur, Martin, Meeker, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Nobles, Olmsted, Pine, Ramsey, Rice, Rock, S ott, Sherburne, Sibley, Stearns, Steele, St. Louis, Wabasha, Waseca, Washington, Winona & Wright Counties, Minnesota					
CHANGE:					
Under Cement Masons:					
Counties of Aitkin, Carlton, Cook, Lake & Pine Co:(North of T-42-N; St. Louis County (South of T-55-N)	$10.18	.30			
Under Linemen:					
South of a line west from the S.W. Corner of T-55-R-23; Saint Louis County-that portion south of Ault, Ellsburg, Lavell, T-55-R-14, T-55-R-15, T-55-R-18 & T-55-R-21 Townships, Kanabec County north of Ann Lake, Knife Lake & Whited Townships; Mille Lacs County north of Baily & Hudgett Twps. & Pine Co; north of Brook Park, Crosby, Mission Creek & Hunch Townships	9.54	4%	6%	11%	1½%

DECISION #UT76-5097 - Mod. #4
(41 FR 49003 - November 5, 1976)
Statewide Utah

Changes:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Steel Erection:					
Group 1	$9.22	.75	$1.615	.85	.14
Group 2	9.60	.75	1.615	.85	.14
Group 3	10.61	.75	1.615	.85	.14
Group 4	10.75	.75	1.615	.85	.14
Group 4-A	11.04	.75	1.615	.85	.14
Group 5	11.52	.75	1.615	.85	.14
Group 6	11.93	.75	1.615	.85	.14
Group 6-A	12.49	.75	1.615	.85	.14
Group 7	13.47	.75	1.615	.85	.14
Piledriving:					
Group 1-A	8.78	.75	1.615	.85	.14
Group 1-B	9.11	.75	1.615	.85	.14
Group 1-C	9.26	.75	1.615	.85	.14
Group 2-A	9.89	.75	1.615	.85	.14
Group 2-B	10.10	.75	1.615	.85	.14
Group 3	10.40	.75	1.615	.85	.14
Group 3-A	10.78	.75	1.615	.85	.14
Group 4	11.33	.75	1.615	.85	.14
Group 5	11.48	.75	1.615	.85	.14
Group 6	12.49	.75	1.615	.85	.14

DECISION #UT76-5097 (Cont'd)

Change (Cont'd):

	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:						
Group 1	$7.76	$8.76	.75	$1.615	.85	.14
Group 2	8.04	9.04	.75	1.615	.85	.14
Group 3	8.39	9.39	.75	1.615	.85	.14
Group 4	8.57	9.57	.75	1.615	.85	.14
Group 4-A	8.68	9.68	.75	1.615	.85	.14
Group 5	8.68	9.68	.75	1.615	.85	.14
Group 6	9.14	10.14	.75	1.615	.85	.14
Group 7	9.29	10.29	.75	1.615	.85	.14
Group 7-A	9.40	10.40	.75	1.615	.85	.14
Group 8	9.70	10.70	.75	1.615	.85	.14
Group 8-A	9.76	10.76	.75	1.615	.85	.14
Group 9	9.82	10.82	.75	1.615	.85	.14
Group 10	9.98	10.98	.75	1.615	.85	.14
Group 11	10.42	11.42	.75	1.615	.85	.14
Group 11-A	11.38	12.38	.75	1.615	.85	.14
Group 11-B	11.83	12.83	.75	1.615	.85	.14
Group 12	11.99	12.99	.75	1.615	.85	.14

SUPERSEDEAS DECISION

STATE: Kentucky
DECISION NO.: KY77-1002
COUNTIES: *See below
DATE: Date of Publication
Supersedes Decision Nos.: KY76-1103 dated September 17, 1976 in 41 FR-40366
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

*Counties: Bell, Knox, Laurel, McCreary, and Whitley

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning & Heating mechanics	5.00				
Bricklayers	6.60				
Carpenters	4.82				
Cement masons	4.65				
Drywall finishers & hangers	4.00				
Electricians	5.00				
Insulation Installer	3.81				
Laborers:					
Hod carriers	3.07				
Laborers	3.00				
Painters	4.50				
Plumbers & fitters	5.00				
Roofers	4.00				
Sheet metal workers	5.00				
Soft floor layers	4.61				
Tile setters	4.50				
Truck drivers	3.00				
POWER EQUIPMENT OPERATORS:					
Backhoe	5.00				
Bulldozer	4.50				
Loader	5.00				

SUPERSEDEAS DECISION

STATE: Nebraska

COUNTIES: Statewide (except Douglas, Cass, Sarpy, Washington and that portion of Saunders County East of Highway #109

DECISION NO.: NE77-4001

DATE: Date of Publication

Supersedes Decision No. NE76-4076 dated April 30, 1976 in 41 FR 18273

DESCRIPTION OF WORK: Heavy and Highway Construction (excluding bridges across navigable waterways).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenter	$5.70				
Carpenter Helper	4.40				
Cement Finisher	5.50				
Concrete Saw Operator	5.00				
Form Setter (road)	5.00				
Form Setter (structures)	4.75				
Laborer	3.80				
Manhole Builder	4.75				
Painter	4.00				
Pile Driver Leadsmen	4.00				
POWER EQUIPMENT OPERATORS:					
All Purpose Spreader	4.50				
Asphalt Distributor	4.40				
Asphalt Distributor Helper	4.15				
Asphalt Kettleman	4.15				
Asphalt Paving Machine	5.50				
Asphalt Paving Machine Screedman	4.75				
Stationary Pl. (base or stabilization)	5.00				
Stationary Pl. (asphalt or concrete)	5.70				
Beginner Operator	4.75				
Bulldozer:					
Less than 115 Drawbar H.P.	5.10				
115 Drawbar H.P. and over	5.70				
Cement Handler	3.80				
Clamshell, Dragline, Backhoe, Crane, Pile Driver or Shovel	5.80				
Concrete Mixer	4.00				
Concrete Paver	5.00				
Slip Form Paver	5.70				
Concrete Finishing Machine and Spreader	5.70				
Conveyor	4.00				
Crusher (incl. those with integral screening plant)	5.10				
Dredge Pump Under 10"	4.50				
Dredge Pump 10" and over	5.00				
Fireman (boiler)	4.15				

DECISION NO. NE77-4001

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Front End Loader:					
3½ Cu. Yds. or Less	$5.00				
over 3½ Cu. Yds.	5.50				
Mechanic	5.80				
Mechanic Helper	5.00				
Motor Grader	5.80				
Oiler or Greaser	5.00				
Roller or Compactor, Self-Propelled	5.10				
Scraper, Under 16 Cu. Yds.	5.10				
Scraper 16 Cu. Yds. and over	5.70				
Power Grade Machine (trimmer)	5.70				
Tractor:					
Farm Type	4.50				
Less than 115 Drawbar H.P.	5.10				
115 Drawbar H.P. and over	5.50				
Traveling Plant (stabilization)	5.10				
Traveling Plant Helper. (stabilization)	4.50				
Trenching Machine	4.75				
TRUCK DRIVER:					
Single Axle	4.00				
Tandem Axle	4.50				
Semi-Trailer	4.50				
Transit Mix	4.50				
Lowboy	5.00				
Water Tanker, 6,000 Gal. & over	5.10				
Welder	5.50				

SUPERSEDEAS DECISION

STATE: Tennessee COUNTY: Statewide
DECISION NUMBER: TN77-1001 DATE: Date of Publication
Supersedes Decision No.: TN76-1001 dated January 5, 1976, in 41 FR-965
DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	6.85				
Carpenters or leadsman	5.70				
Cement masons	5.70				
Electricians	6.60				
Ironworkers, reinforcing	5.45				
Ironworkers, structural	6.10				
Laborers:					
Laborers, unskilled, Flagman	3.50				
Chain saw, Concrete rubber					
Mortar mixer, Pipelayer	3.75				
Air tool operator	3.75				
Fireman	3.80				
Concrete edger	3.90				
Concrete saw operator, fence erector, guard rail erector	4.00				
Asphalt raker	4.10				
Sign erector	4.25				
Form setter, Steel road	4.55				
Powderman	4.85				
Nozzleman or gunman (gunite)	5.70				
Painters or sand blaster	5.70				
Truck drivers:					
2 & 3 axles	3.90				
4 & 5 axles or more or heavy duty off-the-road trucks.	4.60				
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					
POWER EQUIPMENT OPERATORS:					
Pump operator, welder helper	3.65				
Ditch paver, mechanic helper	3.80				
Curb machine	3.90				
Motor crane driver, mulcher or seeder, scale operator	4.00				
Tractor, farm	4.05				
Concrete mixer, less than 1 yd	4.10				
Earth drill	4.30				
Track drill	4.40				
Dozer or loader - stock pile only	4.45				
Oiler, roller, other than finish					

TN77-1001 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (CONT'D)					
Distributor (bituminous)	4.65				
Tractor, crawler, utility	4.70				
Spreader (self-propelled)	4.80				
Asphalt paver, central mixing (asphalt or concrete), Concrete finishing machine, mechanic, Class II, Motor patrol (rough), Roller (high-type), Soil cement machine	5.00				
Tractor - boom & hoist, trenching machine	5.15				
Bulldozer or push dozer, scraper	5.70				
Backhoe, concrete paver, Cranes end loader, Mechanic, Class I, Motor patrol finish, pile-driver, Shovel.	5.70				

[FR Doc.77-358 Filed 1-6-77;8:45 am]

Index to General Wage Determination Decisions and Modifications as of December 3, 1976

There is set forth below an index to general wage determination decisions and modifications as published in the FEDERAL REGISTER pursuant to the Davis-Bacon and related Acts. The index lists general wage determination decisions and modifications by State and County. An updated index is published on the first Friday of each month.

The index is published for the convenience of the public and the Department of Labor will endeavor to keep it accurate and up to date. In the event the data in the index and published general decisions do not coincide, the published general decisions shall control.

ABBREVIATIONS

(B)—Building Construction.
(D)—Dredging.
(F)—Flood Control Construction.
(H)—Heavy Construction.
(Hw)—Highway Construction.
(R)—Residential Construction.
Mod.—Modification.
(HE)—Heavy Engineering.
(LE)—Light Engineering.
(U)—Utility.
(W&S)—Water and Sewer.

Signed at Washington, D.C., this 30th day of December 1976.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

ALABAMA

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #AL76-1082 (Hw)(Excluding Airport Construction)
41 FR 32108 - 7/30/76
AUTAUGA COUNTY
(D,Hw) - See Statewide
BALDWIN COUNTY
Decision #AL76-1009 (R)
41 FR 2540 - 1/16/76
(D,Hw) - See Statewide
BARBOUR COUNTY
(D,Hw) - See Statewide
BIBB COUNTY
(D,Hw) - See Statewide
BLOUNT COUNTY
Decision #AL75-1047 (R)
40 FR 17474 - 4/18/75
Mod. #1 - 41 FR 19004 - 5/7/76
Mod. #2 - 41 FR 52175 - 11/26/76
(D,Hw) - See Statewide
BULLOCK COUNTY
(D,Hw) - See Statewide
BUTLER COUNTY
(D,Hw) - See Statewide
CALHOUN COUNTY
Decision #AL76-1125 (B)
41 FR 47713 - 10/29/76
(D,Hw) - See Statewide
CHAMBERS COUNTY
(D,Hw) - See Statewide
CHEROKEE COUNTY
(D,Hw) - See Statewide
CHILTON COUNTY
(D,Hw) - See Statewide
CHOCTAW COUNTY
(D,Hw) - See Statewide
CLARKE COUNTY
(D,Hw) - See Statewide

ALABAMA (Cont'd.

CLAY COUNTY
(D,Hw) - See Statewide
CLEBURNE COUNTY
(D,Hw) - See Statewide
COFFEE COUNTY
(D,Hw) - See Statewide
COLBERT COUNTY
Decision #AL75-1046 (R)
40 FR 17451 - 4/18/75
Decision #AL76-1011 (B)
41 FR 4741 - 1/30/76
Mod. #1 - 41 FR 8623 - 2/27/76
Mod. #2 - 41 FR 18263 - 4/30/76
Mod. #3 - 41 FR 32101 - 7/30/76
Mod. #4 - 41 FR 40369 - 9/17/76
(D,Hw) - See Statewide
CONECUH COUNTY
(D,Hw) - See Statewide
(R) - See Baldwin County
COOSA COUNTY
(D,Hw) - See Statewide
COVINGTON COUNTY
(D,Hw) - See Statewide
CRENSHAW COUNTY
(D,Hw) - See Statewide
CULLMAN COUNTY
(D,Hw) - See Statewide
DALE COUNTY
(D,Hw) - See Statewide
DALLAS COUNTY
(D,Hw)- See Statewide
DE KALB COUNTY
(D,Hw) - See Statewide
ELMORE COUNTY
(D,Hw)- See Statewide
ESCAMBIA COUNTY
(D,Hw) - See Statewide
(R) - See Baldwin County
ETOWAH COUNTY
(D,Hw)-See Statewide

ALABAMA (Cont'd.

FAYETTE COUNTY
(D,Hw) - See Statewide
FRANKLIN COUNTY
(D,Hw) - See Statewide
(R) - See Colbert County
GENEVA COUNTY
(D,Hw) - See Statewide
GREENE COUNTY
(D,Hw) - See Statewide
HALE COUNTY
(D,Hw) - See Statewide
HENRY COUNTY
(D,Hw) - See Statewide
HOUSTON COUNTY
(D,Hw) - See Statewide
JACKSON COUNTY
(D,Hw) - See Statewide
JEFFERSON COUNTY
Decision #AL76-1117 (B)
41 FR 44610 - 10/8/76
Mod. #1 - 41 FR 47714 - 10/29/76
Mod. #2 - 41 FR 52175 - 11/26/76
(D) - See Statewide
(R) - See Blount County
(Hw) - See Statewide
LAMAR COUNTY
(D,Hw) - See Statewide
LAUDERDALE COUNTY
(B,R) - See Colbert County
(D,Hw) - See Statewide
LAWRENCE COUNTY
Decision #AL76-1134 (B)
41 FR 53239 - 12/3/76
(D,Hw) - See Statewide
(R) - See Colbert County
LEE COUNTY
(D,Hw) - See Statewide
LIMESTONE COUNTY
(B) - See Lawrence County
(D,Hw) - See Statewide

ALABAMA (cont'd)

LOWNDES COUNTY
(D,Hw) - See Statewide
MACON COUNTY
(D,Hw) - See Statewide
MADISON COUNTY
Decision #AL76-1047 (B)
41 FR 15238 - 4/9/76
Mod. #1 - 41 FR 21028 - 5/21/76
Mod. #2 - 41 FR 26423 - 6/25/76
Mod. #3 - 41 FR 40369 - 9/17/76
Mod. #4 - 41 FR 51237 - 11/19/76
Mod. #5 - 41 FR 53228 - 12/3/76
(D,Hw) - See Statewide
MARENGO COUNTY
(D,Hw) - See Statewide
MARION COUNTY
(R) - See Colbert County
(D,Hw) - See Statewide
MARSHALL COUNTY
(D,Hw) - See Statewide
MOBILE COUNTY
Decision #AL76-1124 (B)
41 FR 47719 - 10/29/76
(D,Hw) - See Statewide
(R) - See Baldwin County
MONROE COUNTY
(D,Hw) - See Statewide
MONTGOMERY COUNTY
(D,Hw) - See Statewide
Decision #AL76-1002 (R)
41 FR 1693 - 1/9/76
Mod. #1 - 41 FR 36365 - 8/27/76
Decision #AL76-1138 (B)
41 FR 53241 - 12/3/76
MORGAN COUNTY
(B) - See Lawrence County
(D,Hw) - See Statewide
PERRY COUNTY
(D,Hw) - See Statewide
PICKENS COUNTY
(D,Hw) - See Statewide

ALABAMA (Cont'd)

PIKE COUNTY
(D,Hw) - See Statewide
RANDOLPH COUNTY
(D,Hw) - See Statewide
RUSSELL COUNTY
(D,Hw) - See Statewide
SAINT CLAIR COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
SHELBY COUNTY
(B) - See Jefferson County
(D,Hw) - See Statewide
(R) - See Blount County
SUMTER COUNTY
(D,Hw) - See Statewide
TALLADEGA COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
TALLAPOOSA COUNTY
(D,Hw) - See Statewide
TUSCALOOSA COUNTY
Decision #AL76-1027 (B)
41 FR 7897 - 2/20/76
Mod. #1 - 41 FR 18263 - 4/30/76
Mod. #2 - 41 FR 33125 - 8/6/76
(D,Hw) - See Statewide
WALKER COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
WASHINGTON COUNTY
(D,Hw) - See Statewide
(R) - See Baldwin County
WILCOX COUNTY
(D,Hw) - See Statewide
WINSTON COUNTY
(D,Hw) - See Statewide
(R) - See Colbert County

ALASKA

STATEWIDE
Decision #AK76-5095 (B,H,Hw,D,R)
41 FR 42060 - 9/24/76
Mod. #1 - 41 FR 44590 - 10/8/76
Mod. #2 - 41 FR 45783 - 10/15/76
Mod. #3 - 41 FR 46806 - 10/22/76
Mod. #4 - 41 FR 50117 - 11/12/76

ARIZONA

STATEWIDE
Decision #AZ76-5109 (B,H,Hw)
41 FR 52189 - 11/26/76
APACHE COUNTY
Decision #AZ75-5003 (R)
(Navajo and Hopi Indian
Reservations in Apache, Coconino, Navajo Cos.)
40 FR 3868 - 1/24/75
(B,H,Hw) - See Statewide
COCHISE COUNTY
(B,H,Hw) - See Statewide
COCONINO COUNTY
(R) - See Apache County
(B,H,Hw) - See Statewide
GILA COUNTY
(B,H,Hw) - See Statewide
GRAHAM COUNTY
(B,H,Hw) - See Statewide
GREENLEE COUNTY
(B,H,Hw) - See Statewide
MARICOPA COUNTY
(B,H,Hw) - See Statewide
Decision #AZ76-5110 (R)
41 FR 52198 - 11/26/76
MOHAVE COUNTY
(B,H,Hw) - See Statewide
NAVAJO COUNTY
(B,H,Hw) - See Statewide
(R) - See Apache County
PIMA COUNTY
(B,H,Hw) - See Statewide
Decision #AZ76-5111 (R)
41 FR 52204 - 11/26/76
PINAL COUNTY
(B,H,Hw) - See Statewide
SANTA CRUZ COUNTY
(B,H,Hw) - See Statewide
YAVAPAI COUNTY
(B,H,Hw) - See Statewide
YUMA COUNTY
(B,H,Hw) - See Statewide

ARKANSAS

STATEWIDE
Decision #AR76-4111 (Construction Alteration, and/or repair of streets, highways, runways, and water & sewer utilities)
41 FR 27547 - 7/2/76
Mod. #1 - 41 FR 29606 - 7/16/76
Decision #AR76-5090 (D)
41 FR 44609 - 10/8/76
ARKANSAS COUNTY
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
ASHLEY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BAXTER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BENTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BOONE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BRADLEY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CALHOUN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CARROLL COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CHICOT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd.)

CLARK COUNTY
(B) - See Garland County
(D,H,Hw) - See Statewice
(F) - See Arkansas County
CLAY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLEBURNE COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLEVELAND COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
COLUMBIA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CONWAY COUNTY
Decision #AR76-4130 (B)
41 FR 30509 - 7/23/76
Mod. #1 - 41 FR 43557 - 10/1/76
Mod. #2 - 41 FR 52175 - 11/26/76
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CRAIGHEAD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CRAWFORD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
Decision #AR76-4132 (B)
41 FR 30511 - 7/23/76
Mod. #1 - 41 FR 45783 - 10/15/76
Mod. #2 - 41 FR 47714 - 10/29/76
Mod. #3 - 41 FR 52176 - 11/26/76
Mod. #4 - 41 FR 53229 - 12/3/76
CRITTENDEN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CROSS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
DALLAS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
DESHA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

DREW COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FAULKNER COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FRANKLIN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FULTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GARLAND COUNTY
Decision #AR76-4133 (B)
41 FR 30513 - 7/23/76
Mod. #1 - 41 FR 47715 - 10/29/76
Mod. #2 - 41 FR 52176 - 11/19/76
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GRANT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GREENE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HEMPSTEAD COUNTY
(D,H,Hw) - See Statewide
(F(- See Arkansas County
HOT SPRING COUNTY
(B) - See Garland County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HOWARD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
INDEPENDENCE COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County
IZARD COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd.)

JACKSON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
JEFFERSON COUNTY
(D,H,Hw) - See Statewide
(F)- See Arkansas County
JOHNSON COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LAFAYETTE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LAWRENCE COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LEE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LINCOLN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LITTLE RIVER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LOGAN COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LENOKE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MADISON COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
MARION COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

MILLER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MISSISSIPPI COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MONROE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MONTGOMERY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
NEVADA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
NEWTON COUNTY
(D,H,Hw) - See Statewide
(F) - Arkansas County
OUACHITA COUNTY
(B) - See Union County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PERRY COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PHILLIPS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PIKE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POINSETT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POLK COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POPE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

PRAIRIE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PULASKI COUNTY
(D,H,Hw)- See Statewide
(F) - See Arkansas County
Decision #AR76-4188 (B)
41 FR 51253 - 11/19/76
Decision #AR75-4068 (R)
40 FR 14218 - 3/28/75
RANDOLPH COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
ST. FRANCIS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SALINE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SCOTT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SEARCY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SEBASTIAN COUNTY
(F) - See Arkansas County
(D,H,Hw) - See Statewide
(B) - See Crawford County
SEVIER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SHARP COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

STONE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
UNION COUNTY
Decision #AR76-4129 (B)
41 FR 30507 - 7/23/76
Mod. #1 - 41 FR 52175 - 11/26/76
(F) - See Arkansas County
(D,H,Hw) - See Statewide
VAN BUREN COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WASHINGTON COUNTY
(B) - See Crawford County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WHITE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WOODRUFF COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
YELL COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

CALIFORNIA

ALAMEDA COUNTY
Decision #CA76-5101 (B,H,Hw,D)
41 FR 51255 - 11/19/76
Decision #CA76-5102 (R)
41 FR 51272 - 11/19/76
ALPINE COUNTY
(B,D,H,Hw,R) - See Alameda County
AMADOR COUNTY
(B,D,H,Hw,R) - See Alameda County
BUTTE COUNTY
(B,H,Hw,D) - See Alameda County
CALAVERAS COUNTY
(B,H,Hw,D,R) - See Alameda County
COLUSA COUNTY
(B,H,Hw,D) - See Alameda County
CONTRA COSTA COUNTY
(B,D,H,Hw,R) - See Alameda County
DELNORTE COUNTY
(B,D,H,Hw,R) - See Alameda County
EL DORADO COUNTY
(B,D,H,Hw,R) - See Alameda County
FRESNO COUNTY
(B,D,H,Hw,R) - See Alameda County

CALIFORNIA (Cont'd)

GLENN COUNTY
(B,H,Hw,D) - See Alameda County
HUMBOLDT COUNTY
(B,D,H,Hw,R) - See Alameda County
IMPERIAL COUNTY
Decision #CA76-5058 (B,D,H,Hw)
41 FR 27549 - 7/2/76
Mod. #1 - 41 FR 30492 - 7/23/76
Mod. #2 - 41 FR 42045 - 9/24/76
Mod. #3 - 41 FR 45783 - 10/15/76
Decision #CA76-5059 (R)
41 FR 27559 - 7/2/76
Mod. #1 - 41 FR 30496 - 7/23/76
Mod. #2 - 41 FR 42046 - 9/24/76
Mod. #3 - 41 FR 45784 - 10/15/76
INYO COUNTY
(B,H,Hw,D) - See Imperial County
KERN COUNTY
(B,D,H,Hw,R) - See Imperial County

CALIFORNIA (Cont'd)

KINGS COUNTY
(B,H,Hw,D) - See Alameda County
LAKE COUNTY
(B,H,Hw,D) - See Alameda County
LASSEN COUNTY
(B,H,Hw,D) - See Alameda County
LOS ANGELES COUNTY
(B,D,H,Hw,R) - See Imperial County
MADERA COUNTY
(B,H,Hw,D) - See Alameda County
MARIN COUNTY
(B,H,Hw,D,R) - See Alameda County
MARIPOSA COUNTY
(B,D,H,Hw,R) - See Alameda County
MENDOCINO COUNTY
(B,H,Hw, D) - See Alameda County
MERCED COUNTY
(B,D,H,Hw,R) - See Alameda County
MODOC COUNTY
(B,H,Hw,D) - See Alameda County
MONO COUNTY
(B,H,Hw,D) - See Imperial County
MONTEREY COUNTY
(B,D,H,Hw,R) - See Alameda County
NAPA COUNTY
(B,D,H,Hw,R) - See Alameda County
NEVADA COUNTY
(B,D,H,Hw,R) - See Alameda County
ORANGE COUNTY
(B,D,H,Hw,R) - See Imperial County
PLACER COUNTY
(B,D,H,Hw,R)- See Alameda County
PLUMAS COUNTY
(B,H,Hw,D) - See Alameda County
RIVERSIDE COUNTY
(B,D,H,Hw,R) - See Imperial County
SACRAMENTO COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN BENITO COUNTY
(B,H,Hw,D,R) - See Alameda County
SAN BERNARDINO COUNTY
(B,D,H,Hw,R) - See Imperial County
SAN DIEGO COUNTY
Decision #CA76-5061 (B,H,Hw,D)
41 FR 26429 - 6/25/76
Mod. #1 - 41 FR 30499 - 7/23/76
Mod. #2 - 41 FR 37473 - 9/3/76
Mod. #3 - 41 FR 45785 - 10/15/76

CALIFORNIA (Cont'd.)

SAN DIEGO COUNTY (Cont'd.)
Decision # CA76-5062 (R)
41 FR 26436 - 6/25/76
Mod. #1 - 41 FR 30500 - 7/23/76
Mod. #2 - 41 FR 37473 - 9/3/76
Mod. #3 - 41 FR 45785 - 10/15/76
SAN FRANCISCO COUNTY
(B,D,Hw,H,R) - See Alameda County
SAN JOAQUIN COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN LUIS OBISPO COUNTY
(B,H,Hw,D,R) - See Imperial County
SAN MATEO COUNTY
(B,D,H,Hw,R) - See Alameda County
SANTA BARBARA COUNTY
(B,D,H,Hw,R) - See Imperial County
SANTA CLARA COUNTY
(B,D,Hw,H,R) - See Alameda County
SANTA CRUZ COUNTY
(B,D,H,Hw,R) - See Alameda County
SHASTA COUNTY
(B,D,H,Hw) - See Alameda County
SIERRA COUNTY
(B,D,H,Hw) - See Alameda County
SISKIYOU COUNTY
(B,H,Hw,D) - See Alameda County
SOLANO COUNTY
(B,D,H,Hw,R) - See Alameda County
SONOMA COUNTY
(B,D,Hw,H,R) - See Alameda County
STANISLAUS COUNTY
(B,H,Hw,D) - See Alameda County
SUTTER COUNTY
(B,D,H,Hw,R) - See Alameda County
TEHAMA COUNTY
(B,D,H,Hw,R) - See Alameda County
TRINITY COUNTY
(B,H,Hw,D) - See Alameda County
TULARE COUNTY
(B,H,Hw,D) - See Alameda County
TUOLUMNE COUNTY
(B,D,H,Hw,R) - See Alameda County
VENTURA COUNTY
(B,D,H,Hw,R) - See Imperial County
YOLO COUNTY
(B,H,Hw,D,R) - See Alameda County
YUBA COUNTY
(B,H,Hw,D,R) - See Alameda County

COLORADO

STATEWIDE
Decision #C076-5067 (Hw)
41 FR 32115 - 7/30/76
Mod. #1 - 41 FR 46806 - 10/22/76
Mod. #2 - 41 FR 52176 - 11/26/76
ADAMS COUNTY
Decision #C076-5104 (B,H)
41 FR 52209 - 11/26/76
Decision #C075-5061 (R)
40 FR 22744 - 5/23/75
Mod. #1 - 41 FR 10818 - 3/12/76
(Hw) - See Statewide
ALAMOSA COUNTY
(Hw) - See Statewide
ARAPAHOE COUNTY
(Hw) - See Statewide
(B,H,R) - See Adams County
ARCHULETA COUNTY
(Hw) - See Statewide
BACA COUNTY
(Hw) - See Statewide
BENT COUNTY
(Hw) - See Statewide
BOULDER COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
CHAFFEE COUNTY
(Hw) - See Statewide
CHEYENNE COUNTY
(Hw) - See Statewide
CLEAR CREEK COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
CONEJOS COUNTY
(Hw) - See Statewide
COSTILLA COUNTY
(Hw) - See Statewide
CROWLEY COUNTY
(Hw) - See Statewide
CUSTER COUNTY
(Hw) - See Statewide
DELTA COUNTY
Decision #C076-5107 (B,H)
41 FR 53242 - 12/3/76
(Hw) - See Statewide
DENVER COUNTY
(Hw) - See Statewide
(B,H,R) - See Adams County
DOLORES COUNTY
(Hw) - See Statewide
DOUGLAS COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
EAGLE COUNTY
(B,H) - See Adams County
(Hw) - See Statewide

COLORADO (Cont'd.

ELBERT COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
EL PASO COUNTY
Decision #C076-5105 (B,H)
41 FR 52219 - 11/26/76
(Hw) - See Statewide
FREMONT COUNTY
(Hw) - See Statewide
GARFIELD COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
GILPIN COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
GRAND COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
GUNNISON COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
HINSDALE COUNTY
(Hw) - See Statewide
HUERFANO COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(Hw) - See Statewide
JEFFERSON COUNTY
(Hw) - See Statewide
(B,H,R)— See Adams County
KIOWA COUNTY
(Hw) - See Statewide
KIT CARSON COUNTY
(Hw) - See Statewide
LAKE COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
LA PLATA COUNTY
(Hw) - See Statewide
LARIMER COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
LAS ANIMAS COUNTY
Decision #C076-5106 (B,H)
41 FR 52225 - 11/26/76
(Hw) - See Statewide
LINCOLN COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
MESA COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
MINERAL COUNTY
(Hw) - See Statewide

COLORADO

MOFFAT COUNTY
(Hw) - See Statewide
MONTEZUMA COUNTY
(Hw) - See Statewide
MONTROSE COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
MORGAN COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
OTERO COUNTY
(B,H) - See Las Animas County
(Hw) - See Statewide
OURAY COUNTY
(Hw) - See Statewide
PARK COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
PHILLIPS COUNTY
(Hw) - See Statewide
PITKIN COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
PROWERS COUNTY
(Hw) - See Statewide
PUEBLO COUNTY
(B,H) - See Las Animas County
(Hw) - See Statewide
RIO BLANCO COUNTY
(Hw) - See Statewide
RIO GRANDE COUNTY
(Hw) - See Statewide
ROUTT COUNTY
(Hw) - See Statewide
SAGUACHE COUNTY
(Hw) - See Statewide
SAN JUAN COUNTY
(Hw) - See Statewide
SAN MIGUEL COUNTY
(Hw) - See Statewide
SEDGWICK COUNTY
(Hw) - See Statewide
SUMMIT COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
TELLER COUNTY
(Hw) - See Statewide
WASHINGTON COUNTY
(Hw) - See Statewide
WELD COUNTY
((B,H) - See Adams County
(Hw) - See Statewide
YUMA COUNTY
(Hw) - See Statewide

CONNECTICUT

FAIRFIELD COUNTY
Decision #CT76-2111 (B,H,Hw,R)
41 FR 40378 - 9/17/76
Mod. #1 - 41 FR 48981 - 11/5/76
Mod. #2 - 41 FR 52177 - 11/26/76
Decision #CT76-5118 (D)
41 FR 53250 - 12/3/76
HARTFORD COUNTY
Decision #CT76-2112 (B,H,Hw)
41 FR 40386 - 9/17/76
Mod. #1 - 41 FR 48982 - 11/5/76
Mod. #2 - 41 FR 52177 - 11/26/76
Decision #CT75-2067 (R)
40 FR 18304 - 4/25/75
LITCHFIELD COUNTY
(B,H,Hw,R) - See Fairfield County
MIDDLESEX COUNTY
(B,H,Hw) - See Hartford County
(D) - See Fairfield County
NEW HAVEN COUNTY
Decision #CT76-2109 (R)
41 FR 38705 - 9/10/76
(B,H,Hw) - See Hartford County
(D) - See Fairfield County
NEW LONDON COUNTY
(B,H,Hw,D,R) - See Fairfield County
TOLLAND COUNTY
(B,H,Hw) - See Hartford County
WINDHAM COUNTY
(B,H,Hw,D,R) - See Fairfield County

DELAWARE

STATEWIDE
Decision #CT76-5118 (D)
41 FR 53250 - 12/3/76
Decision #DE76-3212 (B,H,Hw)
41 FR 32122 - 7/30/76
Mod. #1 - 41 FR 35318 - 8/20/76
Mod. #2 - 41 FR 40371 - 9/17/76
Mod. #3 - 41 FR 43560 - 10/1/76
Mod. #4 - 41 FR 47715 - 10/29/76
KENT COUNTY
(B,H,Hw,D) - See Statewide
NEW CASTLE COUNTY
(B,H,Hw,D) - See Statewide
SUSSEX COUNTY
(B,H,Hw,D) - See Statewide

FLORIDA

ALACHUA COUNTY
Decision #FL75-1080 (Hw)
40 FR 41358 - 9/5/75
Mod. #1 - 41 FR 23885 - 6/11/76
Decision #FL75-1089 (B)
40 FR 42489 - 9/12/75
BAKER COUNTY
Decision #FL75-1081 (Hw)
40 FR 41359 - 9/5/75
BAY COUNTY
Decision #FL76-1059 (B)
41 FR 20130 - 5/14/76
Mod. #1 - 41 FR 23885 - 6/11/76
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #FL76-1021 (Hw)
41 FR 4749 - 1/30/76
Mod. #1 - 41 FR 23884 - 6/11/76

FLORIDA (Cont'd.)

BRADFORD COUNTY
(Hw) - See Alachua County
BREVARD COUNTY (Entire County)
Decision #FL76-5024 (D)
41 FR 12855 - 3/26/76
Decision #FL76-1105 (R)
41 FR 40365 - 9/17/76
(Cape Kennedy, Kennedy Space Flight Center and Patrick AFB only)
Decision #FL76-1048 (B,H,Hw)
41 FR 16360 - 4/16/76
Mod. #1 - 41 FR 18264 - 4/30/76
Mod. #2 - 41 FR 35318 - 8/20/76
Mod. #3 - 41 FR 37474 - 9/3/76
Mod. #4 - 41 FR 40371 - 9/17/76
Mod. #5 - 41 FR 46809 - 10/22/76
Mod. #6 - 41 FR 50117 - 11/12/76
(Remainder of County)
Decision #FL76-1108 (B)
41 FR 43555 - 10/1/76
Decision #FL76-1082 (Hw)
41 FR 41360 - 9/5/76
BROWARD COUNTY
Decision #FL75-1084 (Hw)
40 FR 41362 - 9/5/75
Mod. #1 - 40 FR 53168 - 11/14/75
Decision #FL76-1043 (B,H)
41 FR 15239 - 4/9/76
Mod. #1 - 41 FR 16306 - 4/16/76
Mod. #2 - 41 FR 37473 - 9/3/76
(D) - See Brevard County
CALHOUN COUNTY
(Hw) - See Alachua County
CHARLOTTE COUNTY
Decision #FL75-1083 (Hw)
40 FR 41361 - 9/5/75
Mod. #1 - 40 FR 53168 - 11/14/75
Mod. #2 - 41 FR 53229 - 12/3/76
(D) - See Brevard County
CITRUS COUNTY
Decision #FL75-1104 (R)
40 FR 49949 - 10/24/75
(Hw) - See Alachua County
(D) - See Brevard County
CLAY COUNTY
(Hw) - See Baker County
COLLIER COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
COLUMBIA COUNTY
(Hw) - See Alachua County
(B) - See Alachua County
DADE COUNTY
Decision #FL76-1102 (H)
41 FR 40365 - 9/17/76
Decision #FL76-1064 (B)
41 FR 21077 - 5/21/76
Mod. #1 - 41 FR 37474 - 9/3/76

FLORIDA (cont'd)

DADE COUNTY (Cont'd.)
Decision #AR-4050 (R)
39 FR 38077 - 10/25/74
Mod. #1 - 39 FR 40404 - 11/15/74
Decision #FL75-1085 (Hw)
40 FR 41363 - 9/5/75
Mod. #1 - 41 FR 55609 - 11/29/76
Mod. #2 - 41 FR 27539 - 7/2/76
(D) - See Brevard County
DESOTO COUNTY
Decision #AR-4065 (R)
39 FR 43468 - 12/13/74
(Hw) - See Charlotte County
DIXIE COUNTY
(Hw) - See Alachua County
(D) - See Brevard County
DUVAL COUNTY
Decision #FL76-1098 (R)
41 FR 37469 - 9/3/76
Decision #FL76-1069 (B)
41 FR 21997 - 5/28/76
Mod. #1 - 41 FR 51237 - 11/19/76
(D) - See Brevard County
(Hw) - See Baker County
ESCAMBIA COUNTY
Decision #FL76-1133 (B)
41 FR 52233 - 11/26/76
Decision #FL76-1017 (R)
41 FR 3589 - 1/23/76
(D,Hw) - See Bay County
FLAGLER COUNTY
(D) - See Brevard County
(Hw) - See Baker County
FRANKLIN COUNTY
(D) - See Bay County
(Hw) - See Alachua County
GADSDEN COUNTY
Decision #FL76-1018 (R)
41 FR 3590 - 1/23/76
(Hw) - See Alachua County
GILCHRIST COUNTY
(Hw) - See Alachua County
GLADES COUNTY
(Hw) - See Charlotte County
GULF COUNTY
(D) - See Bay County
(Hw) - See Bay County
HAMILTON COUNTY
(Hw) - See Alachua County
HARDEE COUNTY
(R) - See DeSoto County
(Hw) - See Charlotte County
HENDRY COUNTY
(Hw) - See Charlotte County
HERNANDO COUNTY
(D) - See Brevard County
(R) - See Citrus County
(Hw) - See Alachua County

FLORIDA (cont'd)

HIGHLANDS COUNTY
(R) - See DeSoto County
(Hw) - See Charlotte County
HILLSBOROUGH COUNTY
Decision #FL76-1014 (B)
41 FR 3587 - 1/23/76
Mod. #1 - 41 FR 22718 - 6/4/76
Mod. #2 - 41 FR 37473 - 9/3/76
(Hw) - See Brevard Co. (Remainder of Co.)
(D) - See Brevard County
(R) - See Citrus County
HOLMES COUNTY
(Hw) - See Alachua County
INDIAN RIVER COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)
JACKSON COUNTY
(Hw) - See Alachua County
JEFFERSON COUNTY
(D) - See Bay County
(R) - See Gadsden County
(Hw) - See Alachua County
LAFAYETTE COUNTY
(H,Hw) - See Alachua County
LAKE COUNTY
Decision #FL75-1066 (R)
40 FR 28332 - 7/3/75
(Hw) - See Alachua County
LEE COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
LEON COUNTY
Decision #FL76-1135 (B)
41 FR 52234 - 11/26/76
(Hw) - See Alachua County
(R) - See Gadsden County
LEVY COUNTY
(D) - See Brevard County
(Hw) - See Alachua County
LIBERTY COUNTY
(Hw) - See Alachua County
MADISON COUNTY
(R) - See Gadsden County
(Hw) - See Alachua County
MANATEE COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)
MARION COUNTY
(Hw) - See Alachua County
MARTIN COUNTY
Decision #FL75-1033 (B)
40 FR 14219 - 3/28/75
Mod. #1 - 40 FR 19327 - 5/2/75
Mod. #2 - 40 FR 25324 - 6/13/75
Mod. #3 - 40 FR 32551 - 8/1/75
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)

FLORIDA (cont'd)

MONROE COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
NASSAU COUNTY
(D) - See Brevard County
(Hw) - See Baker County
OKALOOSA COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
Decision #FL76-1016 (R)
41 FR 3589 - 1/23/76
OKEECHOBEE COUNTY
(Hw) - See Charlotte County
ORANGE COUNTY
Decision #FL76-1036 (B)
41 FR 9755 - 3/5/76
Mod. #1 - 41 FR 15232 - 4/9/76
Mod. #2 - 41 FR 27539 - 7/2/76
(Hw) - See Brevard Co. (Remainder of Co.
(R) - See Lake County
OSCEOLA COUNTY
(Hw) - See Brevard Co. (Remainder of Co.
(R) - See Lake County
PALM BEACH COUNTY
(D) - See Brevard County
(B) - See Martin County
(Hw) - See Broward County
PASCO COUNTY
(D) - See Brevard County
(Hw) - See Alachua County
(R) - See Citrus County
PINELLAS COUNTY
Decision #FL76-1040 (B)
41 FR 11738 - 3/19/76
(R) - See Citrus County
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.
POLK COUNTY
(Hw) - See Brevard Co. (Remainder of Co.
(R) - See DeSoto County
PUTNAM COUNTY
(Hw) - See Alachua County
ST. JOHNS COUNTY
(D) - See Brevard County
(Hw) - See Baker County
ST. LUCIE COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.
SANTA ROSA COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
(R) - See Okaloosa County

FLORIDA (Cont'd)

SARASOTA COUNTY
(D) - See Brevard County
(Hw) - See Hillsborough County
SEMINOLE COUNTY
(Hw) - See Brevard Co. (Remainder of Co.)
(R) - See Lake County
SUMTER COUNTY
(R) - See Citrus County
(Hw) - See Alachua County
SUWANNEE COUNTY
(Hw) - See Alachua County
TAYLOR COUNTY
(Hw) - See Alachua County
(D) - See Brevard County
(R) - See Gadsden County
UNION COUNTY
(Hw) - See Alachua County
VOLUSIA COUNTY
(D) - See Brevard County (Entire County)
(Cape Kennedy, Kennedy Space Flight Center and Cape Canaveral Air Force Only)
(B,H,Hw) - See Brevard County (Cape Kennedy etc.)
(Remainder of County)
Decision #FL76-1029 (B)
41 FR 8638 - 2/27/76
Mod. #1 - 41 FR 20117 - 5/14/76
Mod. #2 - 41 FR 46809 - 10/22/76
(Hw) - See Brevard County
(Remainder of County)
WAKULLA COUNTY
(D) - See Bay County
(Hw) - See Alachua County
WALTON COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
(R) - See Okaloosa County
WASHINGTON COUNTY
(Hw) - See Alachua County

GEORGIA

STATEWIDE
Decision #AR-4038 (Hw)
39 FR 34984 - 9/27/76
Mod. #1 - 39 FR 36711 - 10/11/74
Mod. #2 - 40 FR 23629 - 5/30/76
Mod. #3 - 41 FR 7888 - 2/20/76
APPLING COUNTY
(Hw) - See Statewide
ATKINSON COUNTY
(Hw) - See Statewide
BACON COUNTY
(Hw) - See Statewide
BAKER COUNTY
Decision #AQ-4089 (R)
39 FR 10067 - 3/15/74
Mod. #1 - 40 FR 3083 - 1/17/75
Mod. #2 - 41 FR 28461 - 7/9/76
(Hw) - See Statewide

GEORGIA (Cont'd.)

BALDWIN COUNTY
(Hw) - See Statewide
BANKS COUNTY
(Hw) - See Statewide
BARROW COUNTY
Decision #AQ-4108 (R)
39 FR 14841 - 4/26/74
(Hw) - See Statewide
BARTOW COUNTY
(Hw) - See Statewide
BEN HILL COUNTY
(Hw) - See Statewide
BERRIEN COUNTY
(Hw) - See Statewide
BIBB COUNTY
Decision #GA76-1122 (B)
41 FR 46803 - 10/22/76
(Hw) - See Statewide
BLECKLEY COUNTY
(Hw) - See Statewide
BRANTLEY COUNTY
(Hw) - See Statewide
BROOKS COUNTY
(Hw) - See Statewide
BRYAN COUNTY
(Hw) - See Statewide
Decision #GA76-1050 (R)
41 FR 16362 - 4/16/76
Decision #GA76-5025 (D)
41 FR 12857 - 3/26/76
BULLOCH COUNTY
(R) - See Bryan County
(Hw) - See Statewide
BURKE COUNTY
Decision #GA76-1015 (R)
41 FR 3590 - 1/23/76
(Hw) - See Statewide
BUTTS COUNTY
(Hw) - See Statewide
CALHOUN COUNTY
(Hw) - See Statewide
(R) - See Baker County
CAMDEN COUNTY
(D) - See Bryan County
(Hw) - See Statewide
CANDLER COUNTY
(Hw) - See Statewide
CARROLL COUNTY
(Hw) - See Statewide
CATOOSA COUNTY
(Hw) - See Statewide
CHARLTON COUNTY
Decision #AR-4037 (R)
39 FR 33919 - 9/20/74
Mod. #1 - 40 FR 3083 - 1/17/75
Mod. #2 - 41 FR 28461 - 7/9/76
(Hw) - See Statewide
CHATHAM COUNTY
Decision #GA76-1120 (B)
41 FR 47722 - 10/29/76
Mod. #1 - 41 FR 52178 - 11/26/76
(R) - See Bryan County
(Hw) - See Statewide

GEORGIA (Cont'd.

CHATTAHOOCHEE COUNTY
Decision #GA75-1039 (B)
40 FR 16471 - 4/11/75
Mod. #1 - 40 FR 24455 - 6/6/75
Mod. #2 - 40 FR 49942 - 10/24/75
Mod. #3 - 41 FR 10818 - 3/12/76
Mod. #4 - 41 FR 15232 - 4/9/76
Mod. #5 - 41 FR 24833 - 6/18/76
Decision #GA76-1035 (R)
41 FR 9758 - 3/5/76
(Hw) - See Statewide
CHATTOOGA COUNTY
(Hw) - See Statewide
CHEROKEE COUNTY
(Hw) - See Statewide
CLARKE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
CLAY COUNTY
(R) - See Baker County
(Hw) - See Statewide
CLAYTON COUNTY
Decision #GA76-1089 (B)
41 FR 36378 - 8/27/76
Mod. #1 - 41 FR 38708 - 9/10/76
Mod. #2 - 41 FR 45785 - 10/15/76
Mod. #3 - 41 FR 46810 - 10/22/76
Mod. #4 - 41 FR 50117 - 11/12/76
Decision #GA76-1033 (R)
41 FR 8642 - 2/27/76
Mod. #1 - 41 FR 15232 - 4/9/76
(Hw) - See Statewide
CLINCH COUNTY
(Hw) - See Statewide
COBB COUNTY
(R) - See Clayton County
(Hw) - See Statewide
COFFEE COUNTY
(Hw) - See Statewide
COLQUITT COUNTY
(Hw) - See Statewide
COLUMBIA COUNTY
(R) - See Burke County
(Hw) - See Statewide
COOK COUNTY
(Hw) - See Statewide
COWETA COUNTY
(Hw) - See Statewide
CRAWFORD COUNTY
(Hw) - See Statewide
CRISP COUNTY
(Hw) - See Statewide
DECATUR COUNTY
(R) - See Baker County
(Hw) - See Statewide

GEORGIA (Cont'd.

DEKALB COUNTY
(B,R) - See Clayton County
(Hw) - See Statewide
DODGE COUNTY
(Hw) - See Statewide
DOOLY COUNTY
(Hw) - See Statewide
DOUGHERTY COUNTY
(Hw) - See Statewide
(R) - See Baker County
DOUGLAS COUNTY
(Hw) - See Statewide
EARLY COUNTY
(Hw) - See Statewide
(R) - See Baker County
ECHOLS COUNTY
(Hw) - See Statewide
EFFINGHAM COUNTY
(R) - See Bryan County
(Hw) - See Statewide
ELBERT COUNTY
(Hw) - See Statewide
(R) - See Barrow County
EMANUEL COUNTY
(Hw) - See Statewide
EVANS COUNTY
(R) - See Bryan County
(Hw) - See Statewide
FANNIN COUNTY
(Hw) - See Statewide
FAYETTE COUNTY
(Hw) - See Statewide
FLOYD COUNTY
(Hw) - See Statewide
FORSYTH COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
FULTON COUNTY
(Hw) - See Statewide
(B,R) - See Clayton County
GILMER COUNTY
(Hw) - See Statewide
GLASCOCK COUNTY
(Hw) - See Statewide
(R) - See Burke County
GLYNN COUNTY
(D) - See Bryan County
(Hw) - See Statewide
GORDON COUNTY
(Hw) - See Statewide
GRADY COUNTY
(Hw) - See Statewide
(R) - See Baker County
GREENE COUNTY
(R) - See Barrow County
(Hw) - See Statewide

GEORGIA (Cont'd.

GWINNETT COUNTY
(R) - See Clayton County
(Hw) - See Statewide
HABERSHAM COUNTY
(Hw) - See Statewide
HALL COUNTY
Decision #GA75-1025 (B)
40 FR 8691 - 2/28/75
Mod. #1 - 40 FR 12003 - 3/14/75
Mod. #2 - 40 FR 49942 - 10/24/75
Mod. #3 - 41 FR 30500 - 7/23/76
(Hw) - See Statewide
HANCOCK COUNTY
(Hw) - See Statewide
(R) - See Burke County
HARALSON COUNTY
(Hw) - See Statewide
HARRIS COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
HART COUNTY
(Hw) - See Statewide
(R) - See Barrow County
HEARD COUNTY
(Hw) - See Statewide
HENRY COUNTY
(Hw) - See Statewide
HOUSTON COUNTY
Decision #GA76-1123 (B)
41 FR 46804 - 10/22/76
(Hw) - See Statewide
IRWIN COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
JASPER COUNTY
(Hw) - See Statewide
JEFF DAVIS COUNTY
(Hw) - See Statewide
JEFFERSON COUNTY
(Hw) - See Statewide
(R) - See Burke County
JENKINS COUNTY
(Hw) - See Statewide
(R) - See Burke County
JOHNSON COUNTY
(Hw) - See Statewide
JONES COUNTY
(Hw) - See Statewide
LAMAR COUNTY
(Hw) - See Statewide
LANIER COUNTY
(Hw) - See Statewide
LAURENS COUNTY
Decision #AQ-4124 (B)
39 FR 20912 - 6/14/74
Mod. #1 - 41 FR 11722 - 3/19/76
(Hw) - See Statewide
LEE COUNTY
(Hw) - See Statewide
(R) - See Baker County

GEORGIA (Cont'd.

LIBERTY COUNTY
(D,R) - See Bryan County
(Hw) - See Statewide
LINCOLN COUNTY
(Hw) - See Statewide
(R) - See Burke County
LONG COUNTY
(Hw) - See Statewide
(R) - See Bryan County
LOWNDES COUNTY
(Hw) - See Statewide
LUMPKIN COUNTY
(Hw) - See Statewide
MCDUFFIE COUNTY
(Hw) - See Statewide
(R) - See Burke County
McINTOSH COUNTY
(D) - See Bryan County
(Hw) - See Statewide
MACON COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
MADISON COUNTY
(Hw) - See Statewid3e
(R) - See Barrow County
MARION COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
MERIWETHER COUNTY
(R) - See Chattahoochee County
(Hw) - See Statewide
MILLER COUNTY
(Hw) - See Statewide
(R) - See Baker County
MITCHELL COUNTY
(Hw) - See Statewide
(R) - See Baker County
MONROE COUNTY
(Hw) - See Statewide
MONTGOMERY COUNTY
(Hw) - See Statewide
MORGAN COUNTY
(Hw) - See Statewide
(R) - See Barrow County
MURRAY COUNTY
(Hw) - See Statewide
MUSCOGEE COUNTY
(B,R) - See Chattahoochee County
(Hw) - See Statewide
NEWTON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
OCONEE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
OGLETHORPE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
PAULDING COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.

PEACH COUNTY
(Hw) - See Statewide
PICKENS COUNTY
(Hw) - See Statewide
PIERCE COUNTY
(Hw) - See Statewide
(R) - See Charlton County
PIKE COUNTY
(Hw) - See Statewide
POLK COUNTY
(Hw) - See Statewide
PULASKI COUNTY
(Hw) - See Statewide
PUTNAM COUNTY
(Hw) - See Statewide
QUITMAN COUNTY
(Hw) - See Statewide
(R) - See Baker County
RABUN COUNTY
(Hw) - See Statewide
RANDOLPH COUNTY
(Hw) - See Statewide
(R) - See Baker County
RICHMOND COUNTY
Decision #GA76-1119 (B)
41 FR 45800 - 10/15/76
(Hw) - See Statewide
(R) - See Burke County
ROCKDALE COUNTY
(Hw) - See Statewide
SCHLEY COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
SCREVEN COUNTY
(R) - See Bryan County
(Hw) - See Statewide
SEMINOLE COUNTY
(Hw) - See Statewide
(R) - See Baker County
SPALDING COUNTY
(Hw) - See Statewide
STEPHENS COUNTY
(Hw) - See Statewide
STEWART COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
SUMTER COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TALBOT COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TALIAFERRO COUNTY
(Hw) - See Statewide
(R) - See Burke County
TATTNALL COUNTY
(Hw) - See Statewide
TAYLOR COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County

GEORGIA (Cont'd.)

TELFAIR COUNTY
(Hw) - See Statewide
TERRELL COUNTY
(Hw) - See Statewide
(R) - See Baker County
THOMAS COUNTY
(Hw) - See Statewide
TIFT COUNTY
(Hw) - See Statewide
TOOMBS COUNTY
(Hw) - See Statewide
TOWNS COUNTY
(Hw) - See Statewide
TREUTLEN COUNTY
(Hw) - See Statewide
TROUP COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TURNER COUNTY
(Hw) - See Statewide
TWIGGS COUNTY
(Hw) - See Statewide
UNION COUNTY
(Hw) - See Statewide
UPSON COUNTY
(Hw) - See Statewide
WALKER COUNTY
(Hw) - See Statewide
WALTON COUNTY
(Hw) - See Statewide
(R) - See Barron County
WARE COUNTY
Decision #GA75-1113 (B)
40 FR 58034 - 12/12/75
(R) - See Charlton County
(Hw) - See Statewide
WARREN COUNTY
(Hw) - See Statewide
(R) - See Burke County
WASHINGTON COUNTY
(Hw) - See Statewide
(R) - See Burke County
WAYNE COUNTY
(Hw) - See Statewide
WEBSTER COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
WHEELER COUNTY
(Hw) - See Statewide
WHITE COUNTY
(Hw) - See Statewide
WHITEFIELD COUNTY
(Hw) - See Statewide
WILCOX COUNTY
(Hw) - See Statewide
WILKES COUNTY
(R) - See Burke County
(Hw) - See Statewide
WILKINSON COUNTY
(Hw) - See Statewide
WORTH COUNTY
(Hw) - See Statewide

GUAM

GUAM
Decision #AR-1029 (B,H,Hw,R)
39 FR 32448 - 9/6/74

HAWAII

STATEWIDE
Decision #HI76-5092 (B,H,Hw,D,R)
41 FR 42099 - 9/24/76
Mod. #1 - 41 FR 45785 - 10/15/76
Mod. #2 - 41 FR 51237 - 11/19/76

IDAHO

STATEWIDE
Decision #ID76-5112 (B,H,Hw)
41 FR 52236 - 11/26/76
ADA COUNTY
Decision #AQ-1029 (R)
38 FR 24513 - 9/7/73
Mod. #1 - 38 FR 26543 - 9/21/73
(B,H,Hw) - See Statewide
ADAMS COUNTY
(B,H,Hw) - See Statewide

IDAHO (Cont'd.)

BANNOCK COUNTY
(B,H,Hw) - See Statewice
BEAR LAKE COUNTY
(B,H,Hw) - See Statewide
BENEWAH COUNTY
(B,H,Hw) - See Statewide
BINGHAM COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BOISE COUNTY
(B,H,Hw) - See Statewide
BONNER COUNTY
(B,H,Hw) - See Statewide
BONNEVILLE COUNTY
(B,H,Hw) - See Statewide
BOUNDARY COUNTY
(B,H,Hw) - See Statewide
BUTTE COUNTY
(B,H,Hw) - See Statewide
CAMAS COUNTY
(B,H,Hw) - See Statewide
CANYON COUNTY
(B,H,Hw) - See Statewide
CARIBOU COUNTY
(B,H,Hw) - See Statewide
CASSIA COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
(B,H,Hw) - See Statewide
CLEARWATER COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
ELMORE COUNTY
(B,H,Hw) - See Statewide
FRANKLIN COUNTY
(B,H,Hw) - See Statewide
FREMONT COUNTY
(B,H,Hw) - See Statewide
GEM COUNTY
(B,H,Hw) - See Statewide
GOODING COUNTY
(B,H,Hw) - See Statewide
IDAHO COUNTY
(B,H,Hw) - See Statewide
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JEROME COUNTY
(B,H,Hw) - See Statewide

IDAHO (Cont'd)

KOOTENAI COUNTY
(B,H,Hw) - See Statewide
LATAH COUNTY
(B,H,Hw) - See Statewide
LEMHI COUNTY
(B,H,Hw) - See Statewide
LEWIS COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MINIDOKA COUNTY
(B,H,Hw) - See Statewide
NEZ PERCE COUNTY
(B,H,Hw) - See Statewide
ONEIDA COUNTY
(B,H,Hw) - See Statewide
OWYHEE COUNTY
(B,H,Hw) - See Statewide
PAYETTE COUNTY
(B,H,Hw) - See Statewide
POWER COUNTY
(B,H,Hw) - See Statewide
SHOSHONE COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TWIN FALLS COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

ILLINOIS

ADAMS COUNTY
Decision #IL76-2120 (B)
41 FR 43570 - 10/1/76
Decision #IL76-2025 (H,Hw)
41 FR 9774 - 3/5/76
ALEXANDER COUNTY
Decision #IL76-2132 (B)
41 FR 47729 - 10/29/76
Decision #IL76-2154 (H,Hw)
41 FR 53256 - 12/3/76
Decision #IL76-5026 (D)
41 FR 12858 - 3/26/76
BOND COUNTY
Decision #IL76-2079 (H,Hw)
41 FR 34496 - 8/13/76
Decision #IL76-2080 (B)
41 FR 34475 - 8/13/76

ILLINOIS (Cont'd.)

BOONE COUNTY
Decision #IL76-2133 (B)
41 FR 46831 - 10/22/75
Decision #IL76-2141 (H,Hw)
41 FR 47733 - 10/29/76
BROWN COUNTY
(B,H,Hw) - See Adams County
(D) - See Alexander County
BUREAU COUNTY
Decision #IL76-2125 (B)
41 FR 44620 - 10/8/76
Decision #IL76-2142 (H,Hw)
41 FR 50126 - 11/12/76
CALHOUN COUNTY
(B,H,Hw) - See Bond County
(D) - See Alexander County
CARROLL COUNTY
(H,Hw) - See Bureau County
CASS COUNTY
Decision #IL76-2129 (B)
41 FR 44625 - 10/8/76
(H,Hw) - See Adams County
(D) - See Alexander County
CHAMPAIGN COUNTY
Decision #IL76-2121 (B)
41 FR 43573 - 10/1/76
Decision #IL76-2145 (H,Hw)
41 FR 53251 - 12/3/76
CHRISTIAN COUNTY
(H,Hw) - See Adams County
Decision #IL76-2128 (B)
41 FR 46823 - 10/22/76
CLARKE COUNTY
Decision #IL76-2108 (B)
41 FR 36361 - 8/27/76
(H,Hw) - See Champaign County
CLAY COUNTY
Decision #IL76-2153 (H,Hw)
41 FR 52253 - 11/26/76
(B) - See Clarke County
CLINTON COUNTY
(B,H,Hw) - See Bond County
COLES COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
COOK COUNTY
Decision #IL76-2122 (B,H,Hw,R)
41 FR 43576 - 10/1/76
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76

ILLINOIS (Cont'd.)

CRAWFORD COUNTY
(H,Hw) - See Clay County
(B) - See Clarke County
CUMBERLAND COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
DEKALB COUNTY
(H,Hw) - See Boone County
DEWITT COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
DOUGLAS COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
DU PAGE COUNTY
Decision #IL76-2123 (B,R)
41 FR 44612 - 10/8/76
Mod. #1 - 41 FR 51237 - 11/19/76
(H,Hw) - See Boone County
EDGAR COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
EDWARDS COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
EFFINGHAM COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
FAYETTE COUNTY
(H,Hw) - See Clay County
FORD COUNTY
Decision #IL76-2124 (B)
41 FR 44616 - 10/8/76
Decision #IL76-2143 (H,Hw)
41 FR 50133 - 11/12/76
FRANKLIN COUNTY
(B,H,Hw) - See Alexander County
FULTON COUNTY
Decision #IL76-2068 (B)
41 FR 21977 - 5/28/76
Decision #IL76-2144 (H,Hw)
41 FR 52247 - 11/26/76
GALLATIN COUNTY
(B,H,Hw) - See Alexander County
(D) - See Alexander County
GREENE COUNTY
(B,H,Hw) - See Bond County
(D) - See Alexander County
GRUNDY COUNTY
(H,Hw) - See Ford County
HAMILTON COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
HANCOCK COUNTY
(H,Hw) - See Fulton County
HARDIN COUNTY
(B,H,Hw) - See Alexander County
HENDERSON COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
HENRY COUNTY
(B) - See Rock Island County
(H,Hw) - See Bureau County
IROQUOIS COUNTY
(B,H,Hw) - See Ford County

ILLINOIS (Cont'd)

JACKSON COUNTY
(B,D,H,Hw) - See Alexander County
JASPER COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
JEFFERSON COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
JERSEY COUNTY
(B,H,Hw) - See Bond County
(D) - See Alexander County
JO DAVIESS COUNTY
(H,Hw) - See Bureau County
JOHNSON COUNTY
(B,H,Hw) - See Alexander County
KANE COUNTY
(B,R) - See Du Page County
(H,Hw) - See Boone County
KANKAKEE COUNTY
(B,H,Hw) - See Ford County
KENDALL COUNTY
(H,Hw) - See Boone County
KNOX COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
LAKE COUNTY
(B,R) - See Du Page County
(D) - See Cook County
(H,Hw) - See Boone County
LA SALLE COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
LAWRENCE COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
LEE COUNTY
(H,Hw) - See Bureau County
LIVINGSTON COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
LOGAN COUNTY
Decision #IL76-2126 (B)
41 FR 44630 - 10/8/76
(H,Hw) - See Adams County
MCDONOUGH COUNTY
(H,Hw) - See Fulton County
MCHENRY COUNTY
(H,Hw) - See Fulton County
Mc LEAN COUNTY
Decision #IL76-2127 (B)
41 FR 44627 - 10/8/76
Mod. #1 - 41 FR 52178 - 11/26/76
(H,Hw) - See Ford County
MACON COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
MACOUPIN COUNTY
(H,Hw) - See Bond County
MADISON COUNTY
Decision #IL76-2078 (B,R)
41 FR 34492 - 8/13/76
(D) - See Alexander County
(H,Hw) - See Bond County

ILLINOIS (Cont'd)

MARION COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
MARSHALL COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
MASON COUNTY
(B) - See Logan County
(H,Hw) - See Adams County
MASSAC COUNTY
(B,D,H,Hw) - See Alexander County
MENARD COUNTY
(B) - See Logan County
(H,Hw) - See Adams County
MERCER COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
MONROE COUNTY
(B,H,Hw) - See Bond County
(D) - See Alexander County
MONTGOMERY COUNTY
(B,H,Hw) - See Bond County
MORGAN COUNTY
(B) - See Cass County
(H,Hw) - See Adams County
(D) - See Alexander County
MOULTRIE COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
OGLE COUNTY
(H,Hw) - See Bureau County
PEORIA COUNTY
Decision #IL76-2015 (B,D,R)
41 FR 8643 - 2/27/76
Mod. #1 - 41 FR 20120 - 5/14/76
(H,Hw) - See Fulton County
PERRY COUNTY
(B,H,Hw) - See Alexander County
PIATT COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
PIKE COUNTY
(B,H,Hw) - See Adams County
(D) - See Alexander County
POPE COUNTY
(B,D,H,Hw) - See Alexander County
PULASKI COUNTY
(B,D,H,Hw) - See Alexander County
PUTNAM COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
RANDOLPH COUNTY
(B) - See Bond County
(H,Hw,D) - See Alexander County
RICHLAND COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
ROCK ISLAND COUNTY
Decision #IL76-2130 (B)
41 FR 47724 - 10/29/76
(H,Hw) - See Bureau County
SAINT CLAIR COUNTY
(B,R) - See Madison County
(H,Hw) - See Bond County
(D) - See Alexander County

ILLINOIS (Cont'd)

SALINE COUNTY
(B,H,Hw) - See Alexander County
SANGAMON COUNTY
Decision #IL76-2131 (B,R)
41 FR 46829 - 10/22/76
(H,Hw) - See Adams County
SCHUYLER COUNTY
(H,Hw) - See Adams County
SCOTT COUNTY
(B) - See Scott County
(H,Hw) - See Adams County
(D) - See Alexander County
SHELBY COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
STARK COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
STEPHENSON COUNTY
(H,Hw) - See Bureau County
TAZEWELL COUNTY
(B,R,D) - See Peoria County
(H,Hw) - See Fulton County
UNION COUNTY
(B,D,H,Hw) - See Alexander County
VERMILLION COUNTY
(H,Hw) - See Champaign County
(B) - See Champaign County
WABASH COUNTY
(B)- See Clarke County
(H,Hw) - See Clay County
WARREN COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
WASHINGTON COUNTY
(B,H,Hw) - See Bond County
WAYNE COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
WHITE COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
WHITESIDE COUNTY
(H,Hw) - See Bureau County
WILL COUNTY
(B,R) - See Du Page County
(H,Hw) - See Boone County
WILLIAMSON COUNTY
Decision #IL76-2048 (B)
41 FR 16369 - 4/15/76
Mod. #1 - 41 FR 20124 - 5/14/76
(B,H,Hw) -See Alexander County
WINNEBAGO COUNTY
(B) - See Boone County
(H,Hw) - See Bureau County
WOODFORD COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County

INDIANA

STATEWIDE
Decision #IN76-2148 (H,Hw)
41 FR 47755 - 10/29/76
Mod. #1 - 41 FR 51238 - 11/19/76
ADAMS COUNTY
(H,Hw) - See Statewide
ALLEN COUNTY
Decision #IN76-2146 (B)
41 FR 47737 - 10/29/76
Mod. #1 - 41 FR 50117 - 11/12/76
Mod. #2 - 41 FR 51238 - 11/19/76
Mod. #3 - 41 FR 52178 - 11/26/76
Mod. #4 - 41 FR 53230 - 12/3/76
Decision #AQ-3000 (R)
38 FR 22341 - 8/17/73
(H,Hw) - See Statewide
BARTHOLOMEW COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BENTON COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BLACKFORD COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(H,Hw) - See Statewide
CARROLL COUNTY
(H,Hw) - See Statewide
CASS COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
Decision #IL76-5026 (D)
41 FR 12858 - 3/26/76
(H,Hw) - See Statewide
CLAY COUNTY
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
CRAWFORD COUNTY
(H,Hw) - See Statewide
(D) - See Clark County
DAVIESS COUNTY
(H,Hw) - See Statewide
DEARBORN COUNTY
(B) - See Allen County
(D) - See Clarke County
(H,Hw) - See Statewide

INDIANA (Cont'd.

DECATUR COUNTY
(H,Hw) - See Statewide
DEKALB COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
DUBOIS COUNTY
(H,Hw) - See Statewide
ELKHART COUNTY
(H,Hw) - See Statewide
FAYETTE COUNTY
(H,Hw) - See Statewide
FLOYD COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
FOUNTAIN COUNTY
(H,Hw) - See Statewide
FRANKLIN COUNTY
(H,Hw) - See Statewide
FULTON COUNTY
(H,Hw) - See Statewide
GIBSON COUNTY
(H,Hw) - See Statewide
GRANT COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
GREENE COUNTY
(H,Hw) - See Statewide
HAMILTON COUNTY
(H,Hw) - See Statewide
HANCOCK COUNTY
(H,Hw) - See Statewide
HARRISON COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
HENDRICKS COUNTY
(H,Hw) - See Statewide
HENRY COUNTY
(H,Hw) - See Statewide
HOWARD COUNTY
(H,Hw) - See Statewide
HUNTINGTON COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JASPER COUNTY
(H,Hw) - See Statewide
JAY COUNTY
(H,Hw) - See Statewide

INDIANA (Cont'd.

JEFFERSON COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
JENNINGS COUNTY
(H,Hw) - See Statewide
JOHNSON COUNTY
(H,Hw) - See Statewide
KNOX COUNTY
(H,Hw) - See Statewide
KOSCIUSKO COUNTY
(H,Hw) - See Statewide
LAGRANGE COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
Decision #IN76-2147 (B,H,Hw)
41 FR 47747 - 10/29/76
Mod. #1 - 41 FR 51238 - 11/19/76
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
LAPORTE COUNTY
(B,H,Hw) - See Lake County
(D) - See Lake County
LAWRENCE COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MARION COUNTY
Decision #IN76-2005 (R)
41 FR 3602 - 1/23/76
Mod. #1 - 41 FR 9720 - 3/5/76
Mod. #2 - 41 FR 21984 - 5/28/76
(B) - See Allen County
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MARTIN COUNTY
(H,Hw) - See Statewide
MIAMI COUNTY
(H,Hw) - See Statewide
MONROE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
NEWTON COUNTY
(H,Hw) - See Statewide
NOBLE COUNTY
(H,Hw) - See Statewide

INDIANA (Cont'd.)

OHIO COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
ORANGE COUNTY
(H,Hw) - See Statewide
OWEN COUNTY
(H,Hw) - See Statewide
PARKE COUNTY
(H,Hw) - See Statewide
PERRY COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
PIKE COUNTY
(H,Hw) - See Statewide
PORTER COUNTY
(B,H,Hw) - See Lake County
(D) - See Lake County
POSEY COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
PULASKI COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RANDOLPH COUNTY
(H,Hw) - See Statewide
RIPLEY COUNTY
(H,Hw) - See Statewide
RUSH COUNTY
(H,Hw) - See Statewide
SAINT JOSEPH COUNTY
(B,H,Hw) - See Lake County
SCOTT COUNTY
(H,Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
SPENCER COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
STARKE COUNTY
(H,Hw) - See Statewide
STEUBEN COUNTY
(H,Hw) - See Statewide
SULLIVAN COUNTY
(H,Hw) - See Statewide
SWITZERLAND COUNTY
(D) - See Clark County
(H,Hw) - See Statewide

INDIANA (Cont'd)

TIPPECANOE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
TIPTON COUNTY
(H,Hw) - See Statewide
UNION COUNTY
(H,Hw) - See Statewide
VANDERBURGH COUNTY
Decision #IN76-2046 (R)
41 FR 16302 - 4/16/76
(B) - See Allen County
(D) - See Clark County
(H,Hw) - See Statewide
VERMILLION COUNTY
(H,Hw) - See Statewide
VIGO COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
WABASH COUNTY
(H,Hw) - See Statewide
WARREN COUNTY
(H,Hw) - See Statewide
WARRICK COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WAYNE COUNTY
(H,Hw) - See Statewide
WELLS COUNTY
(H,Hw) - See Statewide
WHITE COUNTY
(H,Hw) - See Statewide
WHITLEY COUNTY
(H,Hw) - See Statewide

IOWA

ADAIR COUNTY
Decision #IA76-4120 (H,Hw)
41 FR 30481 - 7/23/76
ADAMS COUNTY
(H,Hw) - See Adair County
ALLAMAKEE COUNTY
None
APPANOOSE COUNTY
Decision #IA75-4192 (H,Hw)
40 FR 55629 - 11/28/75
AUDUBON COUNTY
None
BENTON COUNTY
Decision #IA75-4081 (Hw)
40 FR 17507 - 4/18/75
Mod. #1 - 41 FR 12847 - 3/26/76
BLACK HAWK COUNTY
Decision #IA76-4092 (B,H,Hw)(City of Waterloo & abutting Municipalities
41 FR 21079 - 5/21/76
Mod. #1 - 41 FR 33127 - 8/6/76
Mod. #2 - 41 FR 38708 - 9/10/76
Mod. #3 - 41 FR 44594 - 10/8/76
BOONE COUNTY
None
BREMER COUNTY
None
BUCHANAN COUNTY
Decision #IA76-4121 (H,Hw)
41 FR 30482 - 7/23/76
BUENA VISTA COUNTY
None
BUTLER COUNTY
Decision #IA76-4122 (H,Hw)
41 FR 30483 - 7/23/76
CALHOUN COUNTY
None
CARROLL COUNTY
Decision #IA76-4053 (H,Hw)
41 FR 7907 - 2/20/76
CASS COUNTY
(H,Hw) - See Adair County
CEDAR COUNTY
(H,Hw) - See Buchanan County
CERRO GORDO COUNTY (MASON CITY)
Decision #IA76-4099 (B,H,Hw)
41 FR 24844 - 6/18/76
Mod. #1 - 41 FR 33127 - 8/6/76
Mod. #2 - 41 FR 38708 - 9/10/76
Mod. #3 - 41 FR 44594 - 10/8/76
Mod. #4 - 41 FR 48984 - 11/5/76
(H,Hw) - See Butler Co. (Excl Mason City)
CHEROKEE COUNTY
None
CHICKASAW COUNTY
None
CLARKE COUNTY
(H,Hw) - See Adair County

IOWA (Cont'd)

CLAY COUNTY
(H,Hw) - See Carroll County
CLAYTON COUNTY
None
CLINTON COUNTY (City of Clinton and abbutting municipalities)
Decision #IA76-4145 (B,H,Hw)
41 FR 38711 - 9/10/76
Mod. #1 - 41 FR 44594 - 10/8/76
Mod. #2 - 41 FR 48984 - 11/5/76
Mod. #3 - 41 FR 51239 - 11/19/76
CRAWFORD COUNTY
(H,Hw) - See Carroll County
DALLAS COUNTY
None
DAVIS COUNTY
(H,Hw) - See Appanoose County
DECATUR COUNTY
(H,Hw) - See Adair County
DELAWARE COUNTY
(H,Hw) - See Buchanan County
DES MOINES COUNTY (City of Burlington and Abutting Municipalities; and Burlington Ordance Plant
Decision #IA76-4146 (B,H,Hw)
41 FR 38713 - 9/10/76
Mod. #1 - 41 FR 44594 - 10/8/76
Mod. #2 - 41 FR 48984 - 11/5/76
Mod. #3 - 41 FR 51240 - 11/19/76
DUBUQUE COUNTY (City of Dubuque and abutting municipalities)
Decision #IA76-4147 (B,H,Hw)
41 FR 38716 - 9/10/76
Mod. #1 - 41 FR 44594 - 10/8/76
Mod. #2 - 41 FR 48984 - 11/5/76
EMMET COUNTY
None
FAYETTE COUNTY
None
FLOYD COUNTY
(H,Hw) - See Butler County
FRANKLIN COUNTY
Decision #IA76-4123 (H,Hw)
41 FR 30484 - 7/23/76
FREMONT COUNTY
Decision #NE76-4184 (Channel Stabilization)
41 FR 53259 - 12/3/76
(H,Hw) - See Adair County
GREENE COUNTY
None
GRUNDY COUNTY
(H,Hw) - See Butler County

IOWA (Cont'd)

GUTHRIE COUNTY
None
HAMILTON COUNTY
(H,Hw) - See Butler County
HANCOCK COUNTY
(H,Hw) - See Butler County
HARDIN COUNTY
(H,Hw) - See Franklin County
HARRISON COUNTY
Decision #IA76-4124 (H,Hw)
41 FR 30485 - 7/23/76
Mod. #1 - 41 FR 51239 - 11/19/76
(Chann. Stab.) - See Fremont Co.
HENRY COUNTY
None
HOWARD COUNTY
None
HUMBOLDT COUNTY
None
IDA COUNTY
None
IOWA COUNTY
(Hw) - See Benton County
JACKSON COUNTY
(H,Hw) - See Buchanan County
JASPER COUNTY
None
JEFFERSON COUNTY
(H,Hw) - See Appanoose County
JOHNSON COUNTY (City of Iowa City and abutting municipalities)
Decision #IA76-4148 (B,H,Hw)
41 FR 38719 - 9/10/76
Mod. #1 - 41 FR 48984 - 11/5/76
(Hw) - See Benton County
JONES COUNTY
(H,Hw) - See Buchanan County
KEOKUK COUNTY
(Hw) - See Benton County
KOSSUTH COUNTY
None
LEE COUNTY
None
LINN COUNTY
Decision #IA76-4149 (B,H,Hw)
41 FR 38722 - 9/10/76
Mod. #1 - 41 FR 48985 - 11/5/76

IOWA (Cont'd.)

LOUISA COUNTY
None
LUCAS COUNTY
(H,Hw) - See Adair County
LYON COUNTY
None
MADISON COUNTY
None
MAHASKA COUNTY
(Hw) - See Benton County
MARION COUNTY
None
MARSHALL COUNTY
None
MILLS COUNTY
(H,Hw) - See Adair County
(Channel Stab.) - See Freemont Co.
MITCHELL COUNTY
(H,Hw) - See Butler County
MONONA COUNTY
(H,Hw) - See Harrison County
(Channel Stab.) - See Freemont Co.
MONROE COUNTY
None
MONTGOMERY COUNTY
(H,Hw) - See Adair County
MUSCATINE COUNTY
None
O'BRIEN COUNTY
(H,hw) - See Carroll County
OSCEOLA COUNTY
(H,Hw) - See Carroll County
PAGE COUNTY
(H,Hw) - See Adair County
PALO ALTO COUNTY
None
PLYMOUTH COUNTY
None
POCAHONTAS COUNTY
None
POLK COUNTY
Decision #IA76-4150 (B,H,Hw)
41 FR 40393 - 9/17/76
POTTAWATTAMIE COUNTY (City of Council Bluffs and the area within 3 miles from the City Limits)
Decision #IA76-4185 (B,H,Hw)
41 FR 51285 - 11/19/76
(Chann. Stab.) - See Freemont County

IOWA (Cont'd)

POWESHIEK COUNTY
(Hw) - See Benton County
RINGGOLD COUNTY
(H,Hw) - See Adair County
SAC COUNTY
None
SCOTT COUNTY
Decision #IA76-4172 (B,H,Hw)
41 FR 45802 - 10/15/76
Mod. #1 - 41 FR 48985 - 11/5/76
Mod. #2 - 41 FR 51239 - 11/19/76
SHELBY COUNTY
None
SIOUX COUNTY
None
STORY COUNTY (City of Ames and abutting municipalities)
Decision #IA76-4173 (B,H,Hw)
41 FR 45805 - 10/15/76
TAMA COUNTY
(Hw) - See Benton County
TAYLOR COUNTY
(H,Hw) - See Adair County
UNION COUNTY
(H,Hw) - See Adair County
VAN BUREN COUNTY
(H,Hw) - See Appanoose County
WAPELLO COUNTY
(H,Hw) - See Appannose County
WARREN COUNTY
None
WASHINGTON COUNTY
(Hw) - See Benton County
WAYNE COUNTY
(H,Hw) - See Adair County
WEBSTER COUNTY (City of Fort Dodge)
Decision #IA76-4174 (B,H,Hw)
41 FR 45808 - 10/15/76
Mod. #1 - 41 FR 51240 - 11/19/76
WINNEBAGO COUNTY
(H,Hw) - See Butler County
WINNESHIEK COUNTY
None

IOWA (Cont'd.)

WOODBURY COUNTY (City of Sioux City and abutting municipalities)
Decision #IA76-4175 (B)
41 FR 45811 - 10/15/76
(Chann. Stab.) - See Freemont Co.
(H,Hw) - See Harrison County
WORTH COUNTY
(H,Hw) - See Butler County
WRIGHT COUNTY
(H,Hw) - See Butler County

KANSAS

ALLEN COUNTY
Decision #KS75-4197 (Hw,W&S)
40 FR 57091 - 12/5/75
Mod. #1 - 41 FR 27542 - 7/2/76
Mod. #2 - 41 FR 29609 - 7/16/76
Mod. #3 - 41 FR 48985 - 11/5/76
ANDERSON COUNTY
(Hw, W&S) - See Allen County
ATCHISON COUNTY
Decision #M075-4070 (D)
40 FR 14225 - 3/28/75
(Hw, W&S) - See Allen County
BARBER COUNTY
Decision #KS75-4198 (Hw, W&S)
40 FR 57090 - 12/5/75
BARTON COUNTY
(Hw, W&S) - See Barber County
BOURBON COUNTY
(Hw, W&S) - see Allen County
BROWN COUNTY
(Hw, W&S) - See Allen County
BUTLER COUNTY
(Hw, W&S) - See Allen County
CASS COUNTY
(Hw, W&S) - See Allen County
CHASE COUNTY
(Hw, W&S) - See Allen County
CHAUTAUQUA COUNTY
(Hw, W&S) - See Allen County
CHEROKEE COUNTY
(Hw, W&S) - See Allen County
CHEYENNE COUNTY
(Hw, W&S) - See Barber County
CLARK COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.)

CLAY COUNTY
(Hw, W&S) - See Allen County
CLOUD COUNTY
(Hw, W&S) - See Allen County
COFFEY COUNTY
(Hw, W&S) - See Allen County
COMANCHE COUNTY
(Hw, W&S) - See Barber County
COWLEY COUNTY
(Hw, W&S) - See Allen County
CRAWFORD COUNTY
(Hw, W&S) - See Allen County
DECATUR COUNTY
(Hw, W&S) - See Barber County
DICKINSON COUNTY
(Hw, W&S) - See Allen County
DONIPHAN COUNTY
(D) - See Atchison County
(Hw, W&S) - See Allen County
DOUGLAS COUNTY
Decision #KS76-4134 (Hw)
41 FR 32127 - 7/30/76
EDWARDS COUNTY
(Hw, W&S) - See Barber County
ELK COUNTY
(Hw, W&S) - See Allen County
ELLIS COONTY
(Hw, W&S) - See Barber County
ELLSWORTH COUNTY
(Hw, W&S) - See Barber County
FINNEY COUNTY
(Hw, W&S) - See Barber County
FORD COUNTY
(Hw, W&S) - See Barber County
FRANKLIN COUNTY
(Hw, W&S) - See Allen County
GEARY COUNTY
Decision #AQ-68 (R)
38 FR 11791 - 3/29/74
(Hw, W&S) - See Allen County
GOVE COUNTY
(Hw, W&S) - See Barber County
GRAHAM COUNTY
(Hw, W&S) - See Barber County
GRANT COUNTY
(Hw, W&S) - See Barber County
GRAY COUNTY
(Hw, W&S) - See Barber County
GREELEY COUNTY
(Hw, W&S) - See Barber County
GREENWOOD COUNTY
(Hw, W&S) - See Allen County

KANSAS (Cont'd.

HAMILTON COUNTY
(Hw, W&S) - See Barber County
HARPER COUNTY
(Hw, W&S) - See Allen County
HARVEY COUNTY
(Hw, W&S) - See Allen County
HASKELL COUNTY
(Hw, W&S) - See Barber County
HODGEMAN COUNTY
(Hw, W&S) - See Barber County
JACKSON COUNTY
(Hw, W&S) - See Allen County
JEFFERSON COUNTY
(Hw) - See Douglas County
JEWELL COUNTY
(Hw, W&S) - See Barber County
JOHNSON COUNTY
Decision #MD76-4177 (B,H,Hw)
41 FR 50139 - 11/12/76
Decision #MD76-4103 (R)
41 FR 27602 - 7/2/76
Mod. #1 - 41 FR 34482 - 8/13/76
KEARNY COUNTY
(Hw, W&S) - See Barber County
KINGMAN COUNTY
(Hw, W&S) - See Allen County
KIOWA COUNTY
(Hw, W&S) - See Barber County
LABETTE COUNTY
(Hw, W&S) - See Allen County
LANE COUNTY
(Hw, W&S) - See Barber County
LEAVENWORTH COUNTY
Decision #KS76-4098 (B)
41 FR 23899 - 6/11/76
Mod. #1 - 41 FR 44596 - 10/8/76
(D) - See Atchison County
(Hw) - See Douglas County
LINCOLN COUNTY
(Hw, W&S) - See Barber County
LINN COUNTY
(Hw, W&S) - See Allen County
LOGAN COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.

LYON COUNTY
(Hw, W&S) - See Allen County
McPHERSON COUNTY
(Hw, W&S) - See Allen County
MARION COUNTY
(Hw, W&S) - See Allen County
MARSHALL COUNTY
(Hw, W&S) - See Allen County
MEADE COUNTY
(Hw, W&S) - See Barber County
MIAMI COUNTY
(Hw) - See Douglas County
MITCHELL COUNTY
(Hw, W&S) - See Barber County
MONTGOMERY COUNTY
(Hw, W&S) - See Allen County
MORRIS COUNTY
(Hw, W&S) - See Allen County
MORTON COUNTY
(Hw, W&S) - See Barber County
NEMAHA COUNTY
(Hw, W&S) - See Allen County
NEOSHO COUNTY
(Hw, W&S) - See Allen County
NESS COUNTY
(Hw, W&S) - See Barber County
NORTON COUNTY
(Hw, W&S) - See Barber County
OSAGE COUNTY
(Hw, W&S) - See Allen County
OSBORNE COUNTY
(Hw, W&S) - See Barber County
OTTAWA COUNTY
(Hw, W&S) - See Allen County
PAWNEE COUNTY
(Hw, W&S) - See Barber County
PHILLIPS COUNTY
(Hw, W&S) - See Barber County
POTTAWATOMIE COUNTY
(Hw, W&S) - See Allen County
PRATT COUNTY
(Hw, W&S) - See Barber County
RAWLINS COUNTY
(Hw, W&S) - See Barber County
RAY COUNTY
(Hw, W&S) - See Allen County

KANSAS (Cont'd.

RENO COUNTY
(Hw, W&S) - See Allen County
REPUBLIC COUNTY
(Hw, W&S) - See Allen County
RICE COUNTY
(Hw, W&S) - See Barber County
RILEY COUNTY
(Hw, W&S) - See Allen County
(R) - See Geary County
ROOKS COUNTY
(Hw, W&S) - See Barber County
RUSH COUNTY
(Hw, W&S) - See Barber County
RUSSELL COUNTY
(Hw, W&S) - See Barber County
SALINE COUNTY
(Hw, W&S) - See Allen County
SCOTT COUNTY
(Hw, W&S) - See Barber County
SEDGWICK COUNTY
Decision #AP-533 (R)
38 FR 16573 - 6/22/73
Decision #KS76-4097 (B)
41 FR 23896 - 6/11/76
Mod. #1 - 41 FR 44596 - 10/8/76
Decision #KS75-4052 (Hw, W&S)
40 FR 6057 - 2/7/75
Mod. #1 - 40 FR 7775 - 2/21/75
SEWARD COUNTY
(Hw, W&S) - See Barber County
SHAWNEE COUNTY
Decision #KS76-4096 (B)
41 FR 23893 - 6/11/76
Mod. #1 - 41 FR 44595 - 10/8/76
Decision #KS76-4095 (R)
41 FR 23890 - 6/11/76
Mod. #1 - 41 FR 44595 - 10/8/76
(Hw) - See Douglas County

KANSAS (Cont'd.

SHERIDAN COUNTY
(Hw, W&S) - See Barber County
SHERMAN COUNTY
(Hw, W&S) - See Barber County
SMITH COUNTY
(Hw, W&S) - See Barber County
STAFFARD COUNTY
(Hw, W&S) - See Barber County
STANTON COUNTY
(Hw, W&S) - See Barber County
STEVENS COUNTY
(Hw, W&S) - See Barber County
SUMNER COUNTY
(Hw, W&S) - See Allen County
THOMAS COUNTY
(Hw, W&S) - See Barber County
TREGO COUNTY
(Hw, W&S) - See Barber County
WABAUNSEE COUNTY
(Hw, W&S) - See Allen County
WALLACE COUNTY
(Hw, W&S) - See Barber County
WASHINGTON COUNTY
(Hw, W&S) - See Allen County
WICHITA COUNTY
(Hw, W&S) - See Barber County
WILSON COUNTY
(Hw, W&S) - See Allen County
WOODSON COUNTY
(Hw, W&S) - See Allen County
WYANDOTTE COUNTY
(B,H,Hw,R) - See Johnson County
(D) - See Atchison County

KENTUCKY

ADAIR COUNTY
Decision #KY76-1093 (R)
41 FR 37472 - 9/3/76

Decision #KY76-1112 (H,Hw)
41 FR 43579 - 10/1/76
ALLEN COUNTY
Decision #KY75-1128 (H,Hw)
41 FR 50144 - 11/12/76

ANDERSON COUNTY
Decision #KY76-1114 (H,Hw)
41 FR 44633 - 10/8/76
BALLARD COUNTY
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #IL76-5026 (D)
41 FR 12858 - 3/26/76
(H,Hw) - See Allen County
BARREN COUNTY
(H,Hw) - See Adair County
BATH COUNTY
(H,Hw) - See Anderson County
Decision #KY75-1105 (R)
40 FR 49950 - 10/24/75
BELL COUNTY
(H,Hw) - See Adair County
Decision #AQ-4126 (B)
39 FR 22359 - 6/21/74
BOONE COUNTY
Decision #KY76-1092 (R)
41 FR 37471 - 9/3/76
Decision #KY76-1113 (H,Hw)
41 FR 43582 - 10/1/76
Decision #KY76-1086 (B)
41 FR 36384 - 8/27/76
Mod. #1 - 41 FR 45887 - 10/15/76
BOURBON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
BOYD COUNTY
Decision #KY76-1110 (B)
41 FR 42113 - 9/24/76
Mod. #1 - 41 FR 46811 - 10/22/76
Mod. #2 - 41 FR 48985 - 11/5/76
Mod. #3 - 41 FR 51241 - 11/19/76
(D) - See Ballard County
(H,Hw) - See Anderson County
BOYLE COUNTY
Decision #KY76-1096 (R)
41 FR 38707 - 9/10/76
(H,Hw) - See Anderson County
BRACKEN COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County
(R) - See Boone County
BREATHITT COUNTY
(H,Hw) - See Adair County
Decision #KY76-1101 (R)
41 FR 40366 - 9/17/76

KENTUCKY (Cont'd.)

BRECKINRIDGE COUNTY
Decision #KY76-1080 (R)
41 FR 30532 - 7/23/76
Mod. #1 - 41 FR 38709 - 9/10/76
(H,Hw) - See Anderson County
(D) - See Ballard County
BULLITT COUNTY
(D) - See Boone County
(H,Hw) - See Anderson County
(R) - See Breckinridge County
BUTLER COUNTY
(H,Hw) - See Allen County
CALDWELL COUNTY
(H,Hw) - See Allen County
CALLOWAY COUNTY
(H,Hw) - See Allen County
CAMPBELL COUNTY
(B,H,D,Hw,R) - See Ballard County
CARLISLE COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
CARROLL COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County
(R) - See Boone County
CARTER COUNTY
Decision #KY76-1111 (R)
41 FR 43456 - 10/1/76
(H,Hw) - See Anderson County
CASEY COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
CHRISTIAN COUNTY
Decision #KY76-1091 (B)
41 FR 37470 - 9/3/76
Mod. #1 - 41 FR 51241 - 11/19/76
Decision #KY76-1118 (R)
41 FR 45801 - 10/15/76
(H,Hw) - See Allen County
CLARK COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
CLAY COUNTY
Decision #KY76-1097 (R)
41 FR 38707 - 9/10/76
(H,Hw) - See Adair County
CLINTON COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
CRITTENDEN COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County
CUMBERLAND COUNTY
(H,Hw,R) - See Adair County
DAVIESS COUNTY
Decision #AQ-4122 (B)
39 FR 20281 - 6/7/74
Mod. #1 - 41 FR 19008 - 5/7/76
Mod. #2 - 41 FR 21987 - 5/28/76
Mod. #3 - 41 FR 43560 - 10/1/76
Decision #KY76-1136 (R)
41 FR 53260 - 12/3/76
(H,Hw) - See Allen County
(D) - See Ballard County
EDMONSON COUNTY
(H,Hw) - See Allen County

KENTUCKY (Cont'd)

ELLIOTT COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
ESTILL COUNTY
(H,Hw) - See Adair County
(R) - See Clay County
FAYETTE COUNTY
Decision #KY76-1079 (B)
41 FR 30529 - 7/23/76
Mod. #1 - 41 FR 33128 - 8/6/76
Mod. #2 - 41 FR 36368 - 8/27/76
Mod. #3 - 41 FR 45787 - 10/15/76
Mod. #4 - 41 FR 51241 - 11/19/76
(H,Hw) - See Anderson County
(R) - See Bath County
FLEMING COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
FLOYD COUNTY
Decision #AR-4002 (B)
39 FR 24777 - 7/5/74
(H,Hw) - See Adair County
FRANKLIN COUNTY
Decision #KY76-1132 (B)
41 FR 52260 - 11/26/76
(H,Hw) - See Anderson County
FULTON COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
GALLATIN COUNTY
(D) - See Ballard County
(H,Hw) - See Anderson County
R(R) - See Boone County
GARRARD COUNTY
(H,Hw) - See Adair County
(R) - See Boyle County
GRANT COUNTY
(H,Hw) - See Anderson County
(R) - See Boone County
GRAVES COUNTY
(H,Hw) - See Allen County
GRAYSON COUNTY
(H,Hw) - See Anderson County
GREENE COUNTY
(H,Hw,R) - See Adair County
GREENUP COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County
HANCOCK COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County

KENTUCKY (Cont'd)

HARDIN COUNTY
(B) - See Jefferson County
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Ballard County
HARLAN COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
HARRISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
HART COUNTY
(H,Hw,R) - See Adair County
HENDERSON COUNTY
Decision #KY76-1078 (B)
41 FR 30527 - 7/23/76
Mod. #1 - 41 FR 43560 - 10/1/76
Mod. #2 - 41 FR 45787 - 10/15/76
Mod. #3 - 41 FR 53230 - 12/3/76
(H,Hw) - See Allen County
(D) - See Ballard County
HENRY COUNTY
(H,Hw) - See Anderson County
HICKMAN COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
HOPKINS COUNTY
(H,Hw) - See Allen County
JACKSON COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
JEFFERSON COUNTY
Decision #KY76-1129 (B)
41 FR 52257 - 11/26/76
(D) - See Ballard County
(R) - See Breckinridge County
(H,Hw) - See Anderson County
JESSAMINE COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

KENTUCKY (Cont'd)

JOHNSON COUNTY
(H,Hw) - See Anderson County
KENTON COUNTY
(D) - See Ballard County
(B,H,Hw,R) - See Boone County
KNOTT COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
KNOX COUNTY
(H,Hw) - See Adair County
LARUE COUNTY
(R) - See Adair County
(H,Hw) - See Anderson County
LAUREL COUNTY
Decision #KY76-1103 (R)
41 FR 40366 - 9/17/76
(H,Hw) - See Adair County
LAWRENCE COUNTY
(H,Hw) - See Anderson County
LEE COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair cOunty
LESLIE COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
LETCHER COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
LEWIS COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
(D) - See Ballard County
LINCOLN COUNTY
(R) - See Boyle County
(H,Hw) - See Adair county
LIVINGSTON COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
LOGAN COUNTY
(H,Hw) - See Allen County
LYON COUNTY
(H,Hw) - See Allen County
McCRACKEN COUNTY
Decision #KY76-1058 (B)
41 FR 21082 - 5/21/75
Mod. #1 - 41 FR 29612 - 7/16/76
Mod. #2 - 41 FR 45786 - 10/15/76
Mod. #3 - 41 FR 51240 - 11/19/76
(D) - See Ballard County
(H,Hw) - See Allen County

KENTUCKY (Cont'd.)

McCREARY COUNTY
(H,Hw) - See Adair County
McLEAN COUNTY
(H,Hw) - See Allen County
MADISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MAGOFFIN COUNTY
(H,Hw) - See Adair County
MARION COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
MARSHALL COUNTY
(H,Hw) - See Allen County
MARTIN COUNTY
(H,Hw) - See Adair County
MASON COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
(D) - See Ballard County
MEADE COUNTY
(H,Hw) - See Anderson County
(B) - See Jefferson County
(R) - See Breckinridge County
(D) - See Ballard County
MENIFEE COUNTY
(H,Hw) - See Adair County
MERCER COUNTY
(H,Hw) - See Anderson County
METCALFE COUNTY
(H,Hw,R) - See Adair County
MONROE COUNTY
(H,Hw,R) - See Adair County
MONTGOMERY COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MORGAN COUNTY
(H,Hw) - See Anderson County
MUHLENBERG COUNTY
(H,Hw) - See Allen County

KENTUCKY (Cont'd)

NELSON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
NICHOLAS COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
OHIO COUNTY
(H,Hw) - See Allen County
OLDHAM COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Ballard County
OWEN COUNTY
(H,Hw) - See Anderson County
OWSLEY COUNTY
(R) - See Clay County
(H,Hw) - See Adair County
PENDLETON COUNTY
(B,R) - See Boone County
(D) - See Ballard County
PERRY COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
PIKE COUNTY
(B) - See Floyd County
(H,Hw) - See Adair County
POWELL COUNTY
(H,Hw) - See Adair County
PULASKI COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
(R) - See Clay County
ROBERTSON COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
ROCKCASTLE COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
ROWAN COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
RUSSELL COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
SCOTT COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
SHELBY COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County

KENTUCKY (Cont'd.)

SIMPSON COUNTY
(H,Hw) - See Allen County
SPENCER COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
TAYLOR COUNTY
(R) - See Adair County
(H,Hw) - See Allen County
TODD COUNTY
(H,Hw) - See Allen County
TRIGG COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County
(H,Hw) - See Anderson County
(D) - See Boone County
UNION COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County
WARREN COUNTY
Decision #KY76-1077 (B)
41 FR 30525 - 7/23/76
Mod. #1 - 41 FR 35323 - 8/20/76
Mod. #2 - 41 FR 45787 - 10/15/76
(H,Hw) - See Allen County
WASHINGTON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
WAYNE COUNTY
(H,Hw) - See Adair County
(R) - See Boyle County
WEBSTER COUNTY
(H,Hw) - See Allen County
WHITLEY COUNTY
(H,Hw) - See Adair County
WOLFE COUNTY
(H,Hw) - See Adair County
(R) - See Clay County
WOODFORD COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

LOUISIANA

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #LA76-4187 (B,Hw,R)
41 FR 51288 - 11/19/76
ACADIA PARISH
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(B,D,Hw) - See Statewide
ALLEN PARISH
(F) - See Acadia Parish
(D,B,Hw) - See Statewide
ASCENSION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ASSUMPTION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
AVOYELLES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BEAUREGARD PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BIENVILLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BOSSIER PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide
CADDO PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide
CALCASIEU PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide

LOUISIANA (Cont'd)

CALDWELL PARISH
(F) - See Acadia Parish
(B,D,Hw)- See Statewide
CAMERON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CATAHOULA PARISH
(F) - See Acadia Parish
(D,B,Hw) - See Statewide
CLAIBORNE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CONCORDIA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
DE SOTO PARISH
(F) - See Acadia Parish
(B,D,Hw)-See Statewide
EAST BATON ROUGE PARISH
(B,D,Hw) - See Statewide
(F) - See Acadia Parish
EAST CARROLL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST FELICIANA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EVANGELINE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
FRANKLIN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
GRANT PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
IBERIA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

LOUISIANA (Cont'd)

IBERVILLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JACKSON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JEFFERSON PARISH
Decision #AR-3 (R)
39 FR 25777 - 7/12/74
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JEFFERSON DAVIS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LAFAYETTE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LAFOURCHE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LA SALLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LINCOLN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LIVINGSTON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
MADISON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
MOREHOUSE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
NATCHITOCHES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ORLEANS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
OUACHITA PARISH
Decision #AQ-116 (R)
39 FR 22397 - 6/21/74
(B,D,Hw) - See Statewide
(F) - See Acadia Parish

LOUISIANA (Cont'd)

PLAQUEMINES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
POINTE COUPEE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RAPIDES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RED RIVER PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RICHLAND PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
SABINE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. BERNARD PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
ST. CHARLES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. HELENA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. JAMES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. JOHN THE BAPTIST PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. LANDRY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. MARTIN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. MARY PARISH
(F) - See Acadia Parish
(B,D) - See Statewide

LOUISIANA (Cont'd)

ST. TAMMANY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TANGIPAHOA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TENSAS PARISH
(F) - See Acadia Parish
(B,Hw,D) - See Statewide
TERREBONNE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
UNION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
VERMILION PARISH
(F) - See Acadia Parish
(D,B,Hw) - See Statewide
VERNON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WASHINGTON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEBSTER PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST BATON ROUGE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST CARROLL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST FELICIANA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WINN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

MAINE

ANDROSCOGGIN COUNTY
Decision #ME76-2159 (Hw)
41 FR 52173 - 11/26/76
ARDOSTOOK COUNTY
Decision #ME76-2156 (Hw)
41 FR 52171 - 11/26/76
CUMBERLAND COUNTY
Decision #CT76-5118 (D)
41 FR 53250 - 12/3/76
(Hw) - See Aroostock County
FRANKLIN COUNTY
(Hw) - See Androscoggin County
HANCOCK COUNTY
Decision #ME76-2166 (Hw)
41 FR 53227 - 12/3/76
(D) - See Cumberland County
KENNEBEC COUNTY
(Hw) - See Androscoggin County
KNOX COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
LINCOLN COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
OXFORD COUNTY
(Hw) - See Androscoggin County
PENOBSCOT COUNTY
(Hw) - See Aroostock County
PISCATAQUIS COUNTY
(Hw) - See Androscoggin County
SAGADAHOC COUNTY
(D) - See Cumberland County
(Hw) - See Aroostock County
SOMERSET COUNTY
(Hw) - See Androscoggin County
WALDO COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
WASHINGTON COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
YORK COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County

MARYLAND

ALLEGANY COUNTY
Decision #MD76-3275 (B)
41 FR 50156 - 11/12/76
Decision #MD76-3276 (H,Hw)
41 FR 50158 - 11/12/76
ANNE ARUNDEL COUNTY
Decision #GA76-5025 (D)
41 FR 12857 - 3/26/76
Decision #MD76-3274 (B,H)
41 FR 50152 - 11/12/76
Decision #MD76-3151 (Hw)
41 FR 11742 - 3/19/76
BALTIMORE CITY
Decision #MD76-3273 (Hw)
41 FR 50150 - 11/12/76
Decision #MD76-3272 (B,H)
41 FR 50147 - 11/12/76
Decision #CT76-5118 (D)
41 FR 53250 - 12/3/76
BALTIMORE COUNTY
Decision #MD76-3153 (Hw)
41 FR 11744 - 3/19/76
Mod. #1 - 41 FR 14273 - 4/2/76
(B,H) - See Baltimore City
CALVERT COUNTY
(D,Hw) - See Anne Arundel County
CAROLINE COUNTY
Decision #MD76-3152 (Hw)
41 FR 11743 - 3/19/76
Mod. #1 - 41 FR 14273 - 4/2/76
((H) - See Anne Arundel County
CARROLL COUNTY
(Hw) - See Anne Arundel County
CECIL COUNTY
(Hw) - See Caroline County
CHARLES COUNTY
(D,Hw) - See Anne Arundel County
DORCHESTER COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
FREDERICK COUNTY
Decision #AQ-2076 (R)
39 FR 10069 - 3/15/74
Mod. #1 - 40 FR 15272 - 4/4/75
(Hw) - See Anne Arundel County
GARRETT COUNTY
(B,H,Hw) - See Allegany County

MARYLAND (Cont'd.)

HARFORD COUNTY
(B,H) - See Baltimore County
(Hw) - See Anne Arundel County
HOWARD COUNTY
(B,H) - See Baltimore City
(R) - See Baltimore City
(Hw) - See Anne Arundel County
KENT COUNTY
(Hw) - See Caroline County
(D) - See Arundel County
MONTGOMERY COUNTY
Decision #MD76-3285 (B)
41 FR 51308 - 11/19/76
(Hw) - See Anne Arundel County
PRINCE GEORGES COUNTY
(B) - See Montgomery County
(D,Hw) - See Anne Arundel County
QUEEN ANNES COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
ST. MARYS COUNTY
(D,Hw) - See Anne Arundel County
SOMERSET COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
TALBOT COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
WASHINGTON COUNTY
(Hw) - See Anne Arundel County
WICOMICO COUNTY
Decision #AQ-2075 (R)
39 FR 10068 - 3/15/74
Mod. #1 - 39 FR 14849 - 4/26/74
(D) - See Anne Arundel County
(Hw) - See Caroline County
WORCESTER COUNTY
(D) - See Baltimore City
(Hw) - See Caroline County
Decision #AR-2012 (B)
39 FR 27991 - 8/2/74

MASSACHUSETTS

BARNSTABLE COUNTY
Decision #MA76-2095 (B,H,Hw, & Marine)
41 FR 34501 - 8/13/76
Mod. #1 - 41 FR 45788 - 10/15/76
Decision #CT76-5118 (D)
41 FR 53250 - 12/3/76
BERKSHIRE COUNTY
Decision #MA76-2096 (B,H,Hw)
41 FR 34505 - 8/13/76
Mod. #1 - 41 FR 45788 - 10/15/76
BRISTOL COUNTY
Decision #MA76-2097 (B,H,Hw,R & Marine)
41 FR 34509 - 8/13/76
Mod. #1 - 41 FR 45789 - 10/15/76
(D) - See Barnstable County
DUKES COUNTY
(D) - See Barnstable County
ESSEX COUNTY
Decision #MA76-2098 (B,H,Hw, & Marine)
41 FR 34514 - 8/13/76
Mod. #1 - 41 FR 46811 - 10/22/76
Mod. #2 - 41 FR 51241 - 11/19/76
(D) - See Barnstable County
FRANKLIN COUNTY
Decision #MA76-2099 (B,H,Hw)
41 FR 34519 - 8/13/76
Mod. #1 - 41 FR 46812 - 10/22/76
HAMPDEN COUNTY
Decision #MA76-2100 (B,H,Hw)
41 FR 34522 - 8/13/76
Mod. #1 - 41 FR 46812 - 10/22/76
Decision #MA75-2134 (R)
40 FR 59166 - 12/19/75
HAMPSHIRE COUNTY
Decision #MA76-2101 (B,H,Hw)
41 FR 35369 - 8/20/76
Mod. #1 - 41 FR 46813 - 10/22/76
MIDDLESEX COUNTY
Decision #MA76-2102 (B,H,Hw, R, & Marine)
41 FR 37479 - 9/3/76
Mod. #1 - 41 FR 46813 - 10/22/76
(D) - See Barnstable County
NANTUCKET COUNTY
(D) - See Barnstable County

MASSACHUSETTS

NORFOLK COUNTY
Decision #MA76-2103 (B,H,Hw,R)
41 FR 35373 - 8/20/76
Mod. #1 - 41 FR 46814 - 10/22/76
(D) - See Barnstable County
PLYMOUTH COUNTY
Decision #MA76-2104 (B,H,Hw,R)
41 FR 37485 - 9/3/76
Mod. #1 - 41 FR 46815 - 10/22/76
(D) - See Barnstable County
SUFFOLK COUNTY
Decision #MA76-2105 (B,H,Hw,D,R, & Marine)
41 FR 35377 - 8/20/76
Mod. #1 - 41 FR 46815 - 10/22/76
(D) - See Barnstable County
WORCESTER COUNTY
Decision #MA76-2106 (B,H,Hw,R)
41 FR 37490 - 9/3/76
Mod. #1 - 41 FR 46816 - 10/22/76

MICHIGAN

STATEWIDE
Decision #MI76-2036 (Hw, W&S)
41 FR 11763 - 3/19/76
Mod. #1 - 41 FR 22719 - 6/4/76
ALCONA COUNTY
Decision #MI76-2135 (B,H)
41 FR 47766 - 10/29/76
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(Hw, W&S) - See Statewide
ALGER COUNTY
Decision #MI76-2136 (B,H)
41 FR 47771 - 10/29/76
(D) - See Alcona County
(Hw, W&S) - See Statewide
ALLEGAN COUNTY
Decision #MI76-2137 (B,H)
41 FR 47774 - 10/29/76
Decision #AM-398 (R)
36 FR 15891 - 8/18/71
(Hw, W&S) - See Statewide
(D) - See Alcona County
ALPENA COUNTY
(D) - See Alcona County
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
ANTRIM COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
ARENAC COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
BARAGA COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
BARRY COUNTY
(Hw, W&S) - See Statewide
BAY COUNTY
Decision #MI76-2138 (B,H)
41 FR 48989 - 11/5/76
(D) - See Alcona County
(Hw, W&S) - See Statewide
BENZIE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

BERRIEN COUNTY
(B,H) - See Allegan County
Decision #AM-399 (R)
36 FR 15892 - 8/18/71
(D) - See Alcona County
(Hw, W&S) - See Statewide
BRANCH COUNTY
Decision #AM-401 (R)
36 FR 15894 - 8/18/71
(Hw, W&S) - See Statewide
CALHOUN COUNTY
(B,H) - See Allegan County
Decision #MI76-2107 (R)
41 FR 35381 - 8/20/76
(Hw, W&S) - See Statewide
CASS COUNTY
(Hw, W&S) - See Statewide
(R) - See Branch County
CHARLEVOIX COUNTY
(B,H) - See Allegan County
(D) - See Alcona County
(Hw, W&S) - See Statewide
CHEBOYGAN COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
CHIPPEWA COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
CLARE COUNTY
(Hw, W&S) - See Statewide
CLINTON COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
CRAWFORD COUNTY
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

DELTA COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
DICKERSON COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County
(B,H) - See Alger County
EATON COUNTY
Decision #AM-8041 (R)
36 FR 24027 - 12/17/71
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
EMMET COUNTY
(B,H) - See Charlevoix County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GENESEE COUNTY
(B,H) - See Bay County
Decision #MI76-2081 (R)
41 FR 26448 - 6/25/76
(Hw, W&S) - See Statewide
GLADWIN COUNTY
(Hw) - See Statewide
GOGEBIC COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GRAND TRAVERSE COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GRATIOT COUNTY
(Hw, W&S) - See Statewide
HILLSDALE COUNTY
(Hw, W&S) - See Statewide
HOUGHTON COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
HURON COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Allegan County
INGHAM COUNTY
(B,H) - See Allegan County
(R) - See Eaton County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.

IONIA COUNTY
(Hw, W&S) - See Statewide
IOSCO COUNTY
(B,H) - See Bay County
(Hw, W&S) - See Statewide
(D) - See Alcona County
IRON COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County
ISABELLA COUNTY
(Hw, W&S) - See Statewide
JACKSON COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
KALAMAZOO COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
(R) - See Branch County
KALKASKA COUNTY
(Hw, W&S) - See Statewide
KENT COUNTY
Decision #MI76-2049 (B,H)
41 FR 16390 - 4/16/76
Decision #AM-402 (R)
36 FR 15895 - 8/18/71
(Hw, W&S) - See Statewide
KEWEENAW COUNTY
(D) - See Alcona County
(B,H) - See Alger County
(Hw, W&S) - See Statewide
LAKE COUNTY
(R) - See Genesee County
LAPEER COUNTY
(R) - See Genesee County
(B,H) - See Bay County
(Hw, W&S) - See Statewide
LEELANAU COUNTY
(D) - See Alcona County
(B,H) - See Grant Traverse County
(Hw, W&S) - See Statewide
LENAWEE COUNTY
(Hw, W&S) - See Statewide
LIVINGSTON COUNTY
(Hw, W&S) - See Statewide
LUCE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MACKINAC COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MACOMB COUNTY
Decision #MI76-2139 (B,H,R)
41 FR 51313 - 11/19/76
(D) - See Alcona County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.

MANISTEE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MARQUETTE COUNTY
Decision #AR-3178 (R)
39 FR 44166 - 12/20/74
Mod. #1 - 40 FR 22734 - 5/23/75
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MASON COUNTY
(B,H) - See Charlevoix County
(D) - See Alcona County
MECOSTA COUNTY
(Hw, W&S) - See Statewide
MENOMINEE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MIDLAND COUNTY
(Hw, W&S) - See Statewide
MISSAUKEE COUNTY
(Hw, W&S) - See Statewide
MONROE COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MONTCALM COUNTY
(Hw, W&S) - See Statewide
(R) - See Kent County
MONTMORENCY COUNTY
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
MUSKEGON COUNTY
Decision #MI75-2120 (R)
40 FR 49955 - 10/24/75
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
NEWAYGO COUNTY
(Hw, W&S) - See Statewide
OAKLAND COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OCEANA COUNTY
(B,H,R) - See Alcorn County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OGEMAW COUNTY
(Hw, W&S) - See Statewide
ONTONAGON COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.

OSCEOLA COUNTY
(Hw, W&S) - See Statewide
OSCODA COUNTY
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
OTSEGO COUNTY
(Hw, W&S) - See Statewide
OTTAWA COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
(R) - See Allegan County
PRESQUE ISLE COUNTY

(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
ROSCOMMON COUNTY
(Hw, W&S) - See Statewide
SAGINAW COUNTY
(B,H) - See Bay County
(R) - See Genesee County
(Hw, W&S) - See Statewide
SAINT CLAIR COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(R) - See Genesee County
(Hw, W&S) - See Statewide
SAINT JOSEPH COUNTY
(Hw, W&S) - See Statewide
(R) - See Branch County
SANILAC COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
SCHOOLCRAFT COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
SHIAWASSEE COUNTY
(B,H) - See Bay County
(R) - See Genesee County
(Hw, W&S) - See Statewide
TUSCOLA COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
VAN BUREN COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
WASHTENAW COUNTY
(B,H,R) - See Macomb County
(Hw, W&S) - See Statewide
(D) - See Alcona County
WAYNE COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
WEXFORD COUNTY
(Hw, W&S) - See Statewide

MINNESOTA

AITKIN COUNTY
Decision #MN76-2058 (H,Hw)
41 FR 20131 - 5/14/76
Mod. #1 - 41 FR 43561 - 10/1/76
ANOKA COUNTY
Decision #MN76-2001 (B,R)
41 FR 2551 - 1/16/76
Mod. #1 - 41 FR 5521 - 2/6/76
Mod. #2 - 41 FR 6953 - 2/13/76
Mod. #3 - 41 FR 20124 - 5/14/76
Mod. #4 - 41 FR 52178 - 11/26/76
(H,Hw) - See Aitkin County
BECKER COUNTY
Decision #AQ-3104 (H,Hw)
39 FR 9369 - 3/8/74
BELTRAMI COUNTY
Decision #AR-3147 (H,Hw)
39 FR 36704 - 10/11/74
BENTON COUNTY
(H,Hw) - See Aitkin County
BIG STONE COUNTY
Decision #AQ-3105 (H,Hw)
39 FR 9370 - 3/8/74
BLUE EARTH COUNTY
Decision #MN76-2064 (B)
41 FR 21025 - 5/21/76
Mod. #1 - 41 FR 52179 - 11/26/76
(H,Hw) - See Aitkin County
BROWN COUNTY
None
CARLTON COUNTY
(B,R) - See Saint Louis County
(H,Hw) - See Aitkin County
CARVER COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
CASS COUNTY
(Hw) - See Becker County
CHIPPEWA COUNTY
(Hw) - See Big Stone County
CHISAGO COUNTY
(H,Hw) - See Aitkin County
CLAY COUNTY
(Hw) - See Becker County
CLEAR WATER COUNTY
(H,Hw) - See Beltrami County
COOK COUNTY
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(H,Hw) - See Aitkin County
COTTONWOOD COUNTY
Decision #AQ-3124 (H,Hw)
39 FR 93583 - 3/8/74
CROW WING COUNTY
(H,Hw) - See Aitkin County
DAKOTA COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

DODGE COUNTY
(H,Hw) - See Aitkin County
DOUGLAS COUNTY
(H,Hw) - See Big Stone County
FAIRBAULT COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
FILLMORE COUNTY
(H,Hw) - See Aitkin County
FREEBORN COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
GOODHUE COUNTY
(H,Hw) - See Aitkin County
GRANT COUNTY
(H,Hw) - See Big Stone County
HENNEPIN COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin Count
HOUSTON COUNTY
(H,Hw) - See Aitkin County
HUBBARD COUNTY
(H,Hw) - See Becker County
ISANTI COUNTY
(H,Hw) - See Aitkin County
ITASKA COUNTY
(B,R) - See St. Louis County
(H,Hw) - See Aitkin County
JACKSON COUNTY
(H,Hw) - See Aitkin County
KANABEC COUNTY
(H,Hw) - See Aitkin County
KANDIYOHI COUNTY
(H,Hw) - See Big Stone County
KITTSON COUNTY
(H,Hw) - See Beltrami County
KOOCHICHING COUNTY
(B,R) - See St. Louis County
(H,Hw) - See Aitkin County
LAC QUI PARLE COUNTY
(H,Hw) - See Big Stone County
LAKE COUNTY
(H,Hw) - See Aitkin County
(D) - See Cook County
LAKE OF THE WOODS COUNTY
(H,Hw) - See Beltramie County
LE SHUEUR COUNTY
(H,Hw) - See Aitkin County
LINCOLN COUNTY
(H,Hw) - See Cottonwood County
LYON COUNTY
(H,Hw) - See Cottonwood County
MCLEOD COUNTY
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.

MAHNOMEN COUNTY
(H,Hw) - See Beltrami County
MARSHALL COUNTY
(H,Hw) - See Beltrami County
MARTIN COUNTY
(H,Hw) - See Aitkin County
MEEKER COUNTY
(H,Hw) - See Aitkin County
MILLE LACS COUNTY
(H,Hw) - See Aitkin County
MORRISON COUNTY
(H,Hw) - See Aitkin County
MOWER COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
MURRAY COUNTY
(H,Hw) - See Cottonwood County
NICOLLET COUNTY
(H,Hw) - See Aitkin County
NOBLES COUNTY
(H,Hw) - See Aitkin County
NORMAN COUNTY
(H,Hw) - See Beltrami County
OLMSTEAD COUNTY
Decision #MN76-2002 (B,R)
41 FR 3607 - 1/23/76
Mod. #1 - 41 FR 20125 - 5/14/76
Mod. #2 - 41 FR 52179 - 11/26/76
(H,Hw) - See Aitkin County
OTTER TAIL COUNTY
(H,Hw) - See Becker County
PENNINGTON COUNTY
(H,Hw) - See Beltrami County
PINE COUNTY
(H,Hw) - See Aitkin County
PIPESTONE COUNTY
(H,Hw) - See Cottonwood County
POLK COUNTY
(H,Hw) - See Beltrami County
POPE COUNTY
(H,Hw) - See Big Stone County
RAMSEY COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
RED LAKE COUNTY
(H,Hw) - See Beltrami County
REDWOOD COUNTY
(H,Hw) - See Cottonwood County
RENVILLE COUNTY
None
RICE COUNTY
(H,Hw) - See Aitkin County
ROCK COUNTY
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.

ROSEAU COUNTY
(H,Hw) - See Beltrami County
SAINT LOUIS COUNTY
(D) - See Cook County
(H,Hw) - See Aitkin County
Decision #MN76-2134 (B,R)
41 FR 47780 - 10/29/76
SCOTT COUNTY
(H,Hw) - See Aitkin County
(B,R) - See Anoka County
SHERBURNE COUNTY
(H,Hw) - See Aitkin County
SIBLEY COUNTY
(H,Hw) - See Aitkin County
STEARNS COUNTY
Decision #MN76-2003 (B,R)
41 FR 3610 - 1/23/76
Mod. #1 - 41 FR 20126 - 5/14/76
Mod. #2 - 41 FR 23887 - 6/11/76
Mod. #3 - 41 FR 52179 - 11/26/76
(H,Hw) - See Aitkin County
STEELE COUNTY
(H,Hw) - See Aitkin County
STEVENS COUNTY
(H,Hw) - See Big Stone County
SWIFT COUNTY
(H,Hw) - See Big Stone County
TODD COUNTY
(Hw) - See Bekcer County
TRAVERSE COUNTY
(H,Hw) - See Big Stone County
WABASHA COUNTY
(H,Hw) - See Aitkin County
WADENA COUNTY
(H,Hw) - See Becker County
WASECA COUNTY
(H,Hw) - See Aitkin County
WASHINGTON COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
WATONWAN COUNTY
None
WILKIN COUNTY
(H,Hw) - See Becker County
WINONA COUNTY
(H,Hw) - See Aitkin County
WRIGHT COUNTY
(H,Hw) - See Aitkin County
YELLOW MEDICINE COUNTY
(H,Hw) - See Cottonwood County

MISSISSIPPI

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #MS75-1114 (Hw, W&S)
40 FR 58046 - 12/12/75
Mod. #1 - 40 FR 59653 - 12/29/75
ADAMS COUNTY
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(D,Hw, W&S) - See Statewide
ALCORN COUNTY
(D,H, W&S) - See Statewide
(F) - See Adams County
AMITE COUNTY
(D,H, W&S) - See Statewide
(F) - See Adams County
ATTALA COUNTY
(D,Hw, W&S) - See Statewide
BENTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
BOLIVAR COUNTY
(D,Hw, W&S) See Statewide
(F) - See Adams County
CALHOUN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CARROLL COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CHICKASAW COUNTY
(Hw, W&S) - See Statewide
(F) - See Statewide
CHOCTAW COUNTY
(Hw, W&S) - See Statewide
CLAIBORNE COUNTY
Decision #MS76-1099 (R)
41 FR 40368 - 9/17/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CLARK COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Statewide
CLAY COUNTY
(Hw, W&S) - See Statewide
COAHOMA COUNTY
Decision #MS76-1004 (R)
41 FR 1695 - 1/9/76
Mod. #1 - 41 FR 40371 - 9/17/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
COPIAH COUNTY
Decision #MS76-1074 (R)
41 FR 29650 - 7/16/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
COVINGTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.

DE SOTO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
FORREST COUNTY
Decision #MS75-1076 (R)
40 FR 36935 - 8/22/75
Mod. #1 - 40 FR 55609 - 11/28/75
Decision #MS75-1020 (B)
40 FR 5966 - 2/7/75
Mod. #1 - 40 FR 7798 - 2/21/75
(D,Hw, W&S) - See Statewide
(F) - See Adams County
FRANKLIN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GEORGE COUNTY
Decision #MS75-1077 (R)
40 FR 36935 - 8/22/75
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GREENE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GRENADA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HANCOCK COUNTY
Decision #MS76-1020 (B,H)
41 FR 4780 - 1/30/76
Mod. #1-41 FR 16308 - 4/16/76
Mod. #2-41 FR 19009 - 5/7/76
(D) - See Statewide
(F) - See Adams County
(R) - See George County
HARRISON COUNTY
(B,H) - See Hancock County
(R) - See George County
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HINDS COUNTY
Decision #MS76-1084 (B)
41 FR 35382 - 8/20/76
Mod. #1 - 41 FR 36368 - 8/27/76
Mod. #2 - 41 FR 37476 - 9/3/76
(D,Hw, W&S) - See Statewide
(R) - See Copiah County
(F) - See Adams County
HOLMES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HUMPHREYS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
ISSAQUENA COUNTY
Decision #MS76-1076 (B)
41 FR 29651 - 7/16/76
(R) - See Claiborne County
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.)

ITAWAMBA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JACKSON COUNTY
(D,Hw, W&S) - See Statewide
(B,H) - See Hancock County
(R) - See George County
JASPER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JEFFERSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JEFFERSON DAVIS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JONES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Forest County
KEMPER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAFAYETTE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAMAR COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAUDERDALE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAWRENCE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LEAKE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
LEE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LEFLORE COUNTY
(F) - See Adams County
(D,Hw, W&S) - See Statewide
LINCOLN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LOWNDES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MADISON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
MARION COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MARSHALL COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.)

MONROE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MONTGOMERY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NESHOBA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NEWTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NOXUBEE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
OKTIBBEHA COUNTY
(D,Hw, W&S) - See Statewide
PANOLA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PEARL RIVER COUNTY
(D,Hw, W&S) - See Statewide
(B,H) - See Hancock County
(F) - See Adams County
(R) - See George County
PERRY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PIKE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PONTOTOC COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PRENTISS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
QUITMAN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
RANKIN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SCOTT COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SHARKEY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
(B) - See Issaquena County
SIMPSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SMITH COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

MISSISSIPPI (Cont'd.)

STONE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See George County
SUNFLOWER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B) - See Issaquena County
(R) - See Coahoma County
TALLAHATCHIE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TATE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TIPPAH COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TISHOMINGO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TUNICA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
UNION COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WALTHALL COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WARREN COUNTY
Decision #MS75-1109 (B)
40 FR 53208 - 11/14/75
Mod. #1 - 41 FR 4737 - 1/30/76
Mod. #2 - 41 FR 16309 - 4/16/76
Mod. #3 - 41 FR 18266 - 4/30/76
Mod. #4 - 41 FR 30502 - 7/23/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
WASHINGTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B) - See Issaquena County
(R) - See Coahoma County
WAYNE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WEBSTER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WILKINSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WINSTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.)

YALOBUSHA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
YAZOO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

MISSOURI

STATEWIDE
Decision #MO76-4159 (H,Hw)
41 FR 43584 - 10/1/76
ADAIR COUNTY
(H,Hw) - See Statewide
ANDREW COUNTY
Decision #MO75-4070 (D)
40 FR 14225 - 3/28/75
(H,Hw) - See Statewide
ATCHISON COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
AUDRAIN COUNTY
(H,Hw) - See Statewide
BARRY COUNTY
(Hw) - See Statewide
BARTON COUNTY
(H,Hw) - See Statewide
BATES COUNTY
(H,Hw) - See Statewide
BENTON COUNTY
(H,Hw) - See Statewide
BOLLINGER COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(H,Hw) - See Statewide
(D) - See Andrew County
BUCHANAN COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
BUTLER COUNTY
(Hw) - See Statewide
CALDWELL COUNTY
(H,Hw) - See Statewide
CALLAWAY COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CAMDEN COUNTY
(H,Hw) - See Statewide
CAPE GIRARDEAU COUNTY
Decision #IL76-5026 (D)
41 FR 12858 - 3/26/76
(H,Hw) - See Statewide
CARROLL COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CARTER COUNTY
(Hw) - See Statewide

MISSOURI (Cont'd)

CASS COUNTY
Decision #MO76-4177 (B,H,Hw)
41 FR 50139 - 11/12/76
Decision #MO76-4103 (R)
41 FR 27602 - 7/2/76
Mod. #1 - 41 FR 34482 - 8/13/76
(H,Hw) - See Statewide
CEDAR COUNTY
(H,Hw) - See Statewide
CHARITON COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CHRISTIAN COUNTY
(Hw) - See Statewide
CLARK COUNTY
(H,Hw) - See Statewide
CLAY COUNTY
(B,R) - See Cass County
(D) - See Andrew County
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
COLE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
COOPER COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CRAWFORD COUNTY
(H,Hw) - See Statewide
DADE COUNTY
(H,Hw) - See Statewide
DALLAS COUNTY
(H,Hw) - See Statewide
DAVIESS COUNTY
(H,Hw) - See Statewide
DE KALB COUNTY
(H,Hw) - See Statewide
DENT COUNTY
(Hw) - See Statewide
DOUGLAS COUNTY
(Hw) - See Statewide
DUNKLIN COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
Decision #MO76-4108 (B)
41 FR 27624 - 7/2/76
Mod. #1 - 41 FR 34483 - 8/13/76
Mod. #2 - 41 FR 44598 - 10/8/76
Decision #MO76-4107 (R)
41 FR 27621 - 7/2/76
Mod. #1 - 41 FR 34482 - 8/13/76
Mod. #2 - 41 FR 44598 - 10/8/76
(D) - See Andrew County
(H,Hw) - See Statewide
GASCONADE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
GENTRY COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd)

GREENE COUNTY
(H,Hw) - See Statewide
GRUNDY COUNTY
(H,Hw) - See Statewide
HARRISON COUNTY
(H,Hw) - See Statewide
HENRY COUNTY
(H,Hw) - See Statewide
(B,H,Hw) - See Cass County
HICKORY COUNTY
(H,Hw) - See Statewide
HOLT COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
HOWARD COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
HOWELL COUNTY
(Hw) - See Statewide
IRON COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(B,R) - See Cass County
(D) - See Andrew County
(H,Hw) - See Statewide
JASPER COUNTY
Decision #MO76-4176 (B)
41 FR 45781 - 10/15/76
Mod. #1 - 41 FR 48985 - 11/5/76
JEFFERSON COUNTY
(D) - See Cape Girdeau County
(H,Hw) - See Statewide
JOHNSON COUNTY
(B,H,Hw) - See Cass County
(H,Hw) - See Statewide
KNOX COUNTY
(H,Hw) - See Statewide
LACLEDE COUNTY
(H,Hw) - See Statewide
LAFAYETTE COUNTY
(B,H,Hw) - See Cass County
(H,Hw) - See Statewide
(D) - See Andrew County
LAWRENCE COUNTY
(H,Hw) - See Statewide
LEWIS COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(B,R) - See Franklin County
(H,Hw) - See Statewide
LINN COUNTY
(H,Hw) - See Statewide
LIVINGSTON COUNTY
(H,Hw) - See Statewide
MC DONALD COUNTY
(H,Hw) - See Statewide
(B) - See Jasper County
MACON COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MARIES COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd)

MARION COUNTY
(H,Hw) - See Statewide
MERCER COUNTY
(H,Hw) - See Statewide
MILLER COUNTY
(H,Hw) - See Statewide
MISSISSIPPI COUNTY
(D) - See Cape Girardeau County
(Hw) - See Statewide
MONITEAU COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
MONROE COUNTY
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
NEW MADRID COUNTY
(Hw) - See Statewide
NEWTON COUNTY
(B) - See Jasper County
(H,Hw) - See Statewide
NODAWAY COUNTY
(H,Hw) - See Statewide
OREGON COUNTY
(Hw) - See Statewide
OSAGE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
OZARK COUNTY
(Hw) - See Statewide
PEMISCOT COUNTY
(Hw) - See Statewide
PERRY COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
PETTIS COUNTY
(H,Hw) - See Statewide
PHELPS COUNTY
(H,Hw) - See Statewide
PIKE COUNTY
(H,Hw) - See Statewide
PLATTE COUNTY
(B,R,H,Hw) - See Cass County
(D) - See Andrew County
POLK COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd)

PULASKI COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RALLS COUNTY
(H,Hw) - See Statewide
RANDOLPH COUNTY
(H,Hw) - See Statewide
RAY COUNTY
(B,R) - See Cass County
(H,Hw) - See Statewide
(D) - See Andrew County
REYNOLDS COUNTY
(Hw) - See Statewide
RIPLEY COUNTY
(Hw) - See Statewide
ST. CHARLES COUNTY
(B,R) - See Franklin County
(D) - See Andrew County
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
ST. CLAIR COUNTY
(H,Hw) - See Statewide
ST. FRANCOIS COUNTY
(H,Hw) - See Statewide
ST. LOUIS COUNTY
(B,R) - See Franklin County
(D) - See Cape Girardeau County
(D) - See Andrew County
(H,Hw) - See Statewide
STE. GENEVIEVE COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
SALINE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
SCHUYLER COUNTY
(H,Hw) - See Statewide
SCOTLAND COUNTY
(H,Hw) - See Statewide
SCOTT COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
SHANNON COUNTY
(Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
STODDARD COUNTY
(Hw) - See Statewide

MISSOURI (Cont'd)

STONE COUNTY
(Hw) - See Statewide
SULLIVAN COUNTY
(H,Hw) - See Statewide
TANEY COUNTY
(Hw) - See Statewide
TEXAS COUNTY
(Hw) - See Statewide
VERNON COUNTY
(H,Hw) - See Statewide
WARREN COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WAYNE COUNTY
(Hw) - See Statewide
WEBSTER COUNTY
(Hw) - See Statewide
WORTH COUNTY
(H,Hw) - See Statewide
WRIGHT COUNTY
(Hw) - See Statewide

MONTANA

STATEWIDE
Decision #MT76-5103 (B)
41 FR 51326 - 11/19/76
Decision #MT76-5099 (H,Hw)
41 FR 47789 - 10/29/76
Mod. #1 - 41 FR 51241 - 11/19/76
BEAVERHEAD COUNTY
(B,H,Hw) - See Statewide
BIG HORN COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BROADWATER COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
CARTER COUNTY
(B,H,Hw) - See Statewide
CASCADE COUNTY
Decision #MT76-5100 (R)
41 FR 47798 - 10/29/76
Mod. #1 - 41 FR 51244 - 11/19/76
(B,H,Hw) - See Statewide
CHOUTEAU COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
DANIELS COUNTY
(B,H,Hw) - See Statewide
DAWSON COUNTY
(B,H,Hw) - See Statewide
DEER LODGE COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
FALLON COUNTY
(B,H,Hw) - See Statewide
FERGUS COUNTY
(B,H,Hw) - See Statewide
FLATHEAD COUNTY
(B,H,Hw) - See Statewide

MONTANA (Cont'd.)

GALLATIN COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
GARFIELD COUNTY
) (B,H,Hw) - See Statewide
GLACIER COUNTY
(R) - See Cascade County
(B,H,Hw) - See Statewide
GOLDEN VALLEY COUNTY
(B,H,Hw) - See Statewide
GRANITE COUNTY
(B,H,Hw) - See Statewide
HILL COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JUDITH BASIN COUNTY
(B,H,Hw) - See Statewide
LAKE COUNTY
(B,H,Hw) - See Statewide
LEWIS & CLARK COUNTY
(B,H,Hw) - See Statewide
LIBERTY COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MC CONE COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MEAGHER COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
MISSOULA COUNTY
(R) - See Cascade County
(B,H,Hw) - See Statewide
MUSSELSHELL COUNTY
(B,H,Hw) - See Statewide
PARK COUNTY
(B,H,Hw) - See Statewide
PETROLEUM COUNTY
(B,H,Hw) - See Statewide
PHILLIPS COUNTY
(B,H,Hw) - See Statewide
PONDERA COUNTY
(B,H,Hw) - See Statewide
POWDER RIVER COUNTY
(B,H,Hw) - See Statewide
POWELL COUNTY
(B,H,Hw) - See Statewide
PRAIRIE COUNTY
(B,H,Hw) - See Statewide
RAVALLI COUNTY
(B,H,Hw) - See Statewide

MONTANA (Cont'd.)

RICHLAND COUNTY
(B,H,Hw) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide
ROSEBUD COUNTY
(B,H,Hw) - See Statewide
SANDERS COUNTY
(B,H,Hw) - See Statewide
SHERIDAN COUNTY
(B,H,Hw) - See Statewide
SILVER BOW COUNTY
(R) - See Cascade County
(B,H,Hw) - See Statewide
STILLWATER COUNTY
(B,H,Hw) - See Statewide
SWEET GRASS COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TOOLE COUNTY
(B,H,Hw) - See Statewide
TREASURE COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
WHEATLAND COUNTY
(B,H,Hw) - See Statewide
WIBAUX COUNTY
(B,H,Hw) - See Statewide
YELLOWSTONE COUNTY
(B,H,Hw) - See Statewide

NEBRASKA

ADAMS COUNTY
Decision #NE76-4076 (H,Hw)
41 FR 18273 - 4/30/76
ANTELOPE COUNTY
(H,Hw) - See Adams County
ARTHUR COUNTY
(H,Hw) - See Adams County
BANNER COUNTY
Decision #NE75-4113 (B)
40 FR 26218 - 6/20/75
(H,Hw) - See Adams County
BLAINE COUNTY
(H,Hw) - See Adams County
BOONE COUNTY
(H,Hw) - See Adams County
BOX BUTTE COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
BOYD COUNTY
(H,Hw) - See Adams County
Decision #NE76-4164 (Channel Stabilization)
41 FR 53259 - 12/3/76
BROWN COUNTY
(H,Hw) - See Adams County
BUFFALO COUNTY
(H,Hw) - See Adams County
BURT COUNTY
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
BUTLER COUNTY
(H,Hw) - See Adams County
CASS COUNTY
(Chann. Stab.) - See Boyd County
Decision #NE76-4179 (H,Hw)
41 FR 46837 - 10/22/76
Mod. #1 - 41 FR 50118 - 11/12/76
CEDAR COUNTY
Decision #NE75-4202 (B)
40 FR 58047 - 12/12/75
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
CHASE COUNTY
(H,Hw) - See Adams County
CHERRY COUNTY
(H,Hw) - See Adams County
CHEYENNE COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
CLAY COUNTY
(H,Hw) - See Adams County
COLFAX COUNTY
(H,Hw) - See Adams County

NEBRASKA (Cont'd.)

CUMING COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
CUSTER COUNTY
(H,Hw) - See Adams County
DAKOTA COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
DAWES COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
DAWSON COUNTY
(H,Hw) - See Adams County
DEUEL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
DIXON COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
DODGE COUNTY
(H,Hw) - See Adams County
DOUGLAS COUNTY
Decision #NE76-4180 (B,R)
41 FR 47810 - 10/29/76
Mod. #1 - 41 FR 51249 - 11/19/76
Mod. #2 - 41 FR 53231 - 12/3/76
(H,Hw) - See Cass County
(Chann. Stab.) - See Boyd County
DUNDY COUNTY
(H,Hw) - See Adams County
FILLMORE COUNTY
(H,Hw) - See Adams County
FRANKLIN COUNTY
(H,Hw) - See Adams County
FRONTIER COUNTY
(H,Hw) - See Adams County
FURNAS COUNTY
(H,Hw) - See Adams County
GAGE COUNTY
(H,Hw) - See Adams County
GARDEN COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
GARFIELD COUNTY
(H,Hw) - See Adams County
GOSPER COUNTY
(H,Hw) - See Adams County
GRANT COUNTY
(H,Hw) - See Adams County
GREELEY COUNTY
(H,Hw) - See Adams County

NEBRASKA (Cont'd.)

HALL COUNTY
Decision #NE76-4107 (B)
41 FR 33158 - 8/6/76
(H,Hw) - See Adams County
HAMILTON COUNTY
(B) - See Hall County
(H,Hw) - See Adams County
HARLAN COUNTY
(H,Hw) - See Adams County
HAYES COUNTY
(H,Hw) - See Adams County
HITCHCOCK COUNTY
(H,Hw) - See Adams County
HOLT COUNTY
(H,Hw) - See Adams County
HOOKER COUNTY
(H,Hw) - See Adams County
HOWARD COUNTY
(B) - See Hall County
(H,Hw) - See Adams County
JEFFERSON COUNTY
(H,Hw) - See Adams County
JOHNSON COUNTY
(H,Hw) - See Adams County
KEARNEY COUNTY
(H,Hw) - See Adams County
KEITH COUNTY
(H,Hw) - See Adams County
KEYAPAHA COUNTY
(H,Hw) - See Adams County
KIMBALL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
KNOX COUNTY
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
LANCASTER COUNTY
Decision #NE76-4167 (B)
41 FR 44636 - 10/8/76
Mod. #1 - 41 FR 47715 - 10/29/76
Mod. #2 - 41 FR 50118 - 11/12/76
Decision #NE76-4178 (R)
41 FR 45813 - 10/15/76
(H,Hw) - See Adams County
LINCOLN COUNTY
(H,Hw) - See Adams County
LOGAN COUNTY
(H,Hw) - See Adams County
LOUP COUNTY
(H,Hw) - See Adams County
MC PHERSON COUNTY
(H,Hw) - See Adams County
MADISON COUNTY
(H,Hw) - See Adams County
MERRICK COUNTY
(H,Hw) - See Adams County
(B) - See Hall
MORRILL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County

NEBRASKA (Cont'd.)

NANCE COUNTY
(H,Hw) - See Adams County
NEMAHA COUNTY
Decision #M075-4070 (D)
40 FR 14225 - 3/28/75
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
NUCKOLLS COUNTY
(H,Hw) - See Adams County
OTOE COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
PAWNEE COUNTY
(H,Hw) - See Adams County
PERKINS COUNTY
(H,Hw) - See Adams County
PHELPS COUNTY
(H,Hw) - See Adams County
PIERCE COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
PLATTE COUNTY
(H,Hw) - See Adams County
POLK COUNTY
(H,Hw) - See Adams County
RED WILLOW COUNTY
(H,Hw) - See Adams County
RICHARDSON COUNTY
(Chann. Stab.) - See Boyd County
(D) - See Neemaha County
(H,Hw) - See Adams County
ROCK COUNTY
(H,Hw) - See Adams County
SALINE COUNTY
(H,Hw) - See Adams County
SARPY COUNTY
(Chann. Stab.) - See Boyd County
(B,R) - See Douglas County
(H,Hw) - See Cass County
SAUNDERS COUNTY
(H,Hw) - See Adams County
(H,Hw) - See Cass County
SCOTTS BLUFF COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
SEWARD COUNTY
(H,Hw) - See Adams County
SHERIDAN COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
SHERMAN COUNTY
(H,Hw) - See Adams County
SIOUX COUNTY
(B) - See Banner County
(H,Hw) - See Adams County

NEBRASKA (Cont'd.)

STANTON COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
THAYER COUNTY
(H,Hw) - See Adams County
THOMAS COUNTY
(H,Hw) - See Adams County
THURSTON COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
VALLEY COUNTY
(H,Hw) - See Adams County
WASHINGTON COUNTY
(H,Hw) - See Cass County
(Chann. Stab.) - See Boyd County
WAYNE COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
WEBSTER COUNTY
(H,Hw) - See Adams County
WHEELER COUNTY
(H,Hw) - See Adams County
YORK COUNTY
(H,Hw) - See Adams County

NEVADA

STATEWIDE (Excluding the Nevada Test Site & Tonopah Test Range)
Decision #NV76-5098 (B,H,Hw)
41 FR 47812 - 10/29/76
Mod. #1 - 41 FR 51250 - 11/19/76
Mod. #2 - 41 FR 52180 - 11/26/76
CARSON CITY COUNTY
(B,H,Hw) - See Statewide
CHURCHILL COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
Decision #NV76-5091 (R)(Excluding Nevada Test Site)
41 FR 42124 - 9/24/76
Mod. #1 - 41 FR 44599 - 10/8/76
Mod. #2 - 41 FR 45792 - 10/15/76
Mod. #3 - 41 FR 46817 - 10/22/76
Mod. #4 - 41 FR 52180 - 11/26/76
(B,H,Hw) - See Statewide
Decision #NV76-5080 (B,H,Hw)(Nevada Test Site including the Tonopah Test Range
41 FR 35384 - 8/20/76
Mod. #1 - 41 FR 51250 - 11/19/76
Mod. #2 - 41 FR 52180 - 11/26/76
DOUGLAS COUNTY
(B,H,Hw) - See Statewide
ELKO COUNTY
(B,H,Hw) - See Statewide
ESMERALDA COUNTY
(B,H,Hw) - See Statewide
EUREKA COUNTY
(B,H,Hw) - See Statewide
HUMBOLDT COUNTY
(B,H,Hw) - See Statewide
LANDER COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
LYON COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
NYE COUNTY
(B,H,Hw) - See Clark Co. (Nevada Test Site)
(B,H,Hw) - See Statewide
PERSHING COUNTY
(B,H,Hw) - See Statewide
STOREY COUNTY
(B,H,Hw) - See Statewide
WASHOE COUNTY
Decision #NV76-5113 (R)
41 FR 52263 - 11/26/76
(B,H,Hw) - See Statewide
WHITE PINE COUNTY
(B,H,Hw) - See Statewide

NEW HAMPSHIRE

BELKNAP COUNTY
None
CARROLL COUNTY
None
CHESHIRE COUNTY
None
COOS COUNTY
None
GRAFTON COUNTY
None
HILLSBORO COUNTY
Decision #NH76-2093 (B,H,Hw,R)
41 FR 32162 - 7/30/76
Mod. #1 - 41 FR 53231 - 12/3/76
MERRIMACK COUNTY
Decision #NH76-2113 (B,H,Hw, & Marine)
41 FR 40396 - 9/17/76
Mod. #1 - 41 FR 53233 - 12/3/76
ROCKINGHAM COUNTY
Decision #CT76-5118 (D)
41 FR 53250 - 12/3/76
Decision #NH76-2094 (B,H,Hw,R, & Marine)
41 FR 32165 - 7/30/76
Mod. #1 - 41 FR 53232 - 12/3/76
STRAFFORD COUNTY
Decision #NH76-2114 (B,H,Hw, & Marine)
41 FR 40399 - 9/17/76
Mod. #1 - 41 FR 53232 - 12/3/76
SULLIVAN COUNTY
None

NEW JERSEY

ATLANTIC COUNTY
Decision #NJ76-3248 (B,H,Hw)
41 FR 43598 - 10/1/76
Mod. #1 - 41 FR 44599 - 10/8/76
MMod. #2 - 41 FR 52180 - 11/26/76
Mod. #3 - 41 FR 53233 - 12/3/76
Decision #CT76-5118 (D)
41 FR 53250 - 12/3/76
BERGEN COUNTY
Decision #NJ76-3252 (R)
41 FR 47827 - 10/29/76
Mod. #1 - 41 FR 52182 - 11/26/76
Decision #NJ76-3249 (B,H,Hw)
41 FR 43613 - 10/1/76
Mod. #1 - 41 FR 44599 - 10/8/76
Mod. #2 - 41 FR 52181 - 11/26/76
Mod. #3 - 41 FR 53233 - 12/3/76
(D) - See Atlantic County

NEW JERSEY (Cont'd)

BURLINGTON COUNTY
Decision #NJ75-3096 (R)
40 FR 43413 - 9/19/75
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
CAMDEN COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
CAPE MAY COUNTY
Decision #NJ75-3068 (R)
40 FR 29437 - 7/11/75
(B,H,Hw,D) - See Atlantic County
CUMBERLAND COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
ESSEX COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
GLOUCESTER COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
HUDSON COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
HUNTERDON COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
MERCER COUNTY
(B,D,H,Hw) - See Atlantic County
MIDDLESEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
MONMOUTH COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County

NEW JERSEY (Cont'd.)

MORRIS COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
OCEAN COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
PASSAIC COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
SALEM COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
SOMERSET COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
SUSSEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
UNION COUNTY
Decision #NJ75-3097 (R)
40 FR 43414 - 9/19/75
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
WARREN COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County

NEW MEXICO

STATEWIDE
Decision #NM76-4181 (Streets, Highways, Utilities and Light Engineering Construction)
41 FR 50160 - 11/12/76
Decision #NM76-4182 (Building, including residential in McKinley, Santa Fe, San Juan, Bernalillo, Rio Arriba, Taos, Sandoval & Valencia Cos., but not on the Indian Reservation, and Heavy engineering construction.
41 FR 50163 - 11/12/76
Mod. #1 - 41 FR 53234 - 12/3/76
BERNALILLO COUNTY
(B,H,Hw,R) - See Statewide
CATRON COUNTY
(B,H,Hw) - See Statewide
CHAVES COUNTY
(B,H,Hw) - See Statewide
COLFAX COUNTY
(B,H,Hw) - See Statewide
CURRY COUNTY
(B,H,Hw) - See Statewide
DE BACA COUNTY
(B,H,Hw) - See Statewide
DONA ANA COUNTY
(B,H,Hw) - See Statewide
Decision #NM75-4014 (R)
40 FR 3148 - 1/17/75
EDDY COUNTY
(B,H,Hw) - See Statewide
GRANT COUNTY
(B,H,Hw) - See Statewide
GUADALUPE COUNTY
(B,H,Hw) - See Statewide
HARDING COUNTY
(B,H,Hw) - See Statewide
HIDALGO COUNTY
(B,H,Hw) - See Statewide
LEA COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
LOS ALAMOS COUNTY
(B,H,Hw) - See Statewide
LUNA COUNTY
(B,H,Hw) - See Statewide
McKINLEY COUNTY
(R) - See San Juan County
(B,H,Hw,R) - See Statewide

NEW MEXICO (Cont'd.)

MORA COUNTY
(B,H,Hw) - See Statewide
OTERO COUNTY
(R) - See Dona Ana County
(B,H,Hw) - See Statewide
QUAY COUNTY
(B,H,Hw) - See Statewide
RIO ARRIBA COUNTY
(B,H,Hw,R) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide
SANDOVAL COUNTY
(B,H,Hw,R) - See Statewide
SAN JUAN COUNTY
Decision #NM75-5004 (R)(Navajo Indian Reservation)
40 FR 3921 - 1/24/75
(B,H,Hw,R) - See Statewide
SAN MIGUEL COUNTY
(B,H,Hw) - See Statewide
SANTE FE COUNTY
(B,H,Hw,R) - See Statewide
SIERRA COUNTY
(B,H,Hw) - See Statewide
SOCORRO COUNTY
(B,H,Hw) - See Statewide
TAOS COUNTY
(B,H,Hw,R) - See Statewide
TORRANCE COUNTY
(B,H,Hw) - See Statewide
UNION COUNTY
(B,H,Hw) - See Statewide
VALENCIA COUNTY
(B,H,Hw,R) - See Statewide

NEW YORK

ALBANY COUNTY
Decision #NY76-3277 (B,H,Hw)
41 FR 51342 - 11/19/76
ALLEGANY COUNTY
None
BRONX COUNTY
Decision #NY76-3256 (B,H,Hw)
41 FR 44645 - 10/8/76
Mod. #1 - 41 FR 50120 - 11/12/76
Decision #NY76-3257 (R)
41 FR 44649 - 10/8/76
Mod. #1 - 41 FR 50120 - 11/12/76
Decision #CT76-5118 (D)
41 FR 53250 - 12/3/76
BROOME COUNTY
Decision #NY76-3240 (B,H,Hw)
41 FR 35439 - 8/20/76
Mod. #1 - 41 FR 44600 - 10/8/76
Mod. #2 - 41 FR 50120 - 11/12/76
CATTARAUGUS COUNTY
None
CAYUGA COUNTY
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
CHAUTAUQUA COUNTY
Decision #NY76-3259 (B,H,Hw)
41 FR 47840 - 10/29/76
Mod. #1 - 41 FR 50120 - 11/12/76
(D) - See Cayuga County
CHEMUNG COUNTY
Decision #NY76-3263 (B,H,Hw)
41 FR 47860 - 10/29/76
Mod. #1 - 41 FR 50121 - 11/12/76
CHENANGO COUNTY
None
CLINTON COUNTY
None
COLUMBIA COUNTY
None
CORTLAND COUNTY
None
DELAWARE COUNTY
None

NEW YORK (Cont'd)

DUTCHESS COUNTY
Decision #NY76-3280 (B,H,Hw)
41 FR 50174 - 11/12/76
(D) - See Bronx County
ERIE COUNTY
Decision #NY76-3236 (B,H,Hw)
41 FR 36387 - 8/27/76
Mod. #1 - 41 FR 50119 - 11/12/76
(D) - See Cayuga County
ESSEX COUNTY
None
FRANKLIN COUNTY
(D) - See Cayuga County
FULTON COUNTY
None
GENESEE COUNTY
None
GREENE COUNTY
None
HAMILTON COUNTY
None
HERKIMER COUNTY
None
JEFFERSON COUNTY
Decision #NY76-3269 (B,H,Hw)
41 FR 47896 - 10/29/76
Mod. #1 - 41 FR 50122 - 11/12/76
(D) - See Cayuga County
KINGS COUNTY
(B,H,Hw,R,D) - See Bronx County
LEWIS COUNTY
None
LIVINGSTON COUNTY
None
MADISON COUNTY
None

NEW YORK (Cont'd)

MONROE COUNTY
Decision #NY76-3262 (B,H,Hw)
41 FR 47854 - 10/29/76
Mod. #1 - 41 FR 50120 - 11/12/76
(D) - See Cayuga County
MONTGOMERY COUNTY
None
NASSAU COUNTY
Decision #NY76-3278 (B,H,Hw)
41 FR 51348 - 11/19/76
(D) - See Bronx County
NEW YORK COUNTY
(B,H,Hw,R,D) - See Bronx County
NIAGARA COUNTY
Decision #NY76-3261 (B,H,Hw)
41 FR 47850 - 10/29/76
Mod. #1 - 41 FR 50120 - 11/12/76
(D) - See Cayuga County
ONEIDA COUNTY
Decision #NY76-3270 (B,H,Hw)
41 FR 4790 - 10/29/76
Mod. #1 - 41 FR 50122 - 11/12/76
ONONDAGA COUNTY
Decision #NY76-3258 (B,H,Hw)
41 FR 47835 - 10/29/76
Mod. #1 - 41 FR 50120 - 11/12/76
ONTARIO COUNTY
None
ORANGE COUNTY
Decision #NY76-3279 (B,H,Hw)
41 FR 52271 - 11/26/76
(D) - See Bronx County
ORLEANS COUNTY
(D) - See Cayuga County
OSWEGO COUNTY
(D) - See Cayuga County
OTSEGO COUNTY
None
PUTNAM COUNTY
(D) - See Bronx County
QUEENS COUNTY
(B,D,H,Hw,R) - See Bronx County

NEW YORK (Cont'd)

RENSSELAER COUNTY
(B,H,Hw) - See Albany County
RICHMOND COUNTY
(B,H,Hw,R,D) - See Bronx County
ROCKLAND COUNTY
(D) - See Bronx County
ST LAWRENCE COUNTY
(D) - See Cayuga County
SARATOGA COUNTY
(B,H,Hw) - See Albany County
SCHENECTADY COUNTY
(B,H,Hw) - s-e Albany County
SCHOHARIE COUNTY
None
SCHUYLER COUNTY
None
SENECA COUNTY
None
STEUBEN COUNTY
Decision #NY76-3268 (B,H,Hw)
41 FR 47890 - 10/29/76
Mod. #1 - 41 FR 50121 - 11/12/76
SUFFOLK COUNTY
(B,H,Hw) - See Nassau County
(D) - See Bronx County
SULLIVAN COUNTY
None
TIOGA COUNTY
None

NEW YORK (cont'd.)

TOMPKINS COUNTY
None
ULSTER COUNTY
None
WARREN COUNTY
None
WASHINGTON COUNTY
None
WAYNE COUNTY
Decision #NY76-3267 (B,H,Hw)
41 FR 47884 - 10/29/75
Mod. #1 - 41 FR 50121 - 11/12/76
(D) - See Cayuga County
WESTCHESTER COUNTY
Decision #NY76-3281 (B,H,Hw)
41 FR 50181 - 11/12/76
(D) - See Bronx County
WYOMING COUNTY
None
YATES COUNTY
None

NORTH CAROLINA

STATEWIDE
Decision #NC75-1015 (Hw)
40 FR 4857 - 1/31/75
Mod. #1 - 40 FR 41351 - 9/5/75
Decision #NC75-1078 (Sewer & Water, H)
40 FR 41367 - 9/5/75
ALAMANCE COUNTY
Decision #NC76-1095 (R)
41 FR 37507 - 9/3/76
(Sewer & Water, H,Hw) - See Statewide
ALEXANDER COUNTY
(Sewer & Water, H,Hw) - See Statewide
ALLEGHANY COUNTY
(Sewer & Water, H,Hw) - See Statewide
ANSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ASHE COUNTY
(Sewer & Water, H,Hw) - See Statewide
AVERY COUNTY
Decision #AR-4017 (B)
39 FR 28739 - 8/9/74
Mod. #1 - 39 FR 43466 - 12/13/74
(Sewer & Water, H,Hw) - See Statewide
BEAUFORT COUNTY
Decision #NC76-1109 (R)
41 FR 42128 - 9/24/76
Decision #GA76-5025 (D)
41 FR 12857 - 3/26/76
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.)

BERTIE COUNTY
(D,R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
BLADEN COUNTY
(Sewer & Water, H,Hw) - See Statewide
BRUNSWICK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
Decision #AR-4031 (R)
39 FR 32441 - 9/6/74
Mod. #1 - 41 FR 28464 - 7/9/76
BUNCOMBE COUNTY
Decision #NC76-1062 (B)
41 FR 21179 - 5/21/76
Mod. #1 - 41 FR 29614 - 7/16/76
Mod. #2 - 41 FR 34486 - 8/13/76
Decision #NC75-1014 (R)
40 FR 6111 - 2/7/75
(Sewer & Water, H,Hw) - See Statewide
BURKE COUNTY
Decision #AQ-4105 (B)
39 FR 14842 - 4/26/74
Decision #AQ-4117 (R)
39 FR 18397 - 5/24/74
(Sewer & Water, H,Hw) - See Statewide
CABARRUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CALDWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
CAMDEN COUNTY
Decision #NC76-1042 (B)
41 FR 11721 - 3/19/76
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CARTERET COUNTY
Decision #NC76-1019 (B)
41 FR 4796 - 1/30/76
Mod. #1 - 41 FR 21995 - 5/28/76
Decision #NC76-1073 (R)
41 FR 28469 - 7/9/76
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CASWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
CATAWBA COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
CHATHAM COUNTY
Decision #NC75-1049 (B)
40 FR 18273 - 4/25/75
Mod. #1 - 41 FR 20128 - 5/14/76
Decision #NC76-1094 (R)
41 FR 37506 - 9/3/76
(Sewer & Water, H,Hw) - See Statewide
CHEROKEE COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.

CHOWAN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
(R) - See Beaufort County
CLAY COUNTY
(Sewer & Water, H,Hw) - See Statewide
CLEVELAND COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
COLUMBUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CRAVEN COUNTY
(B) - See Carteret County
(R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
CUMBERLAND COUNTY
Decision #NC76-1024 (B)
41 FR 6945 - 2/13/76
(R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
CURRITUCK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
(B) - See Camden County
DARE COUNTY
(B) - See Camden County
(Sewer & Water, H,Hw) - See Statewide
(D,R) - See Beaufort County
DAVIDSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
DAVIE COUNTY
(Sewer & Water, H,Hw) - See Statewide
DUPLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
DURHAM COUNTY
Decision #NC76-1085 (R)
41 FR 35317 - 8/20/76
(Sewer & Water, H,Hw) - See Statewide
EDGECOMBE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
Decision #NC76-1046 (B)
41 FR 15231 - 4/9/76
FORSYTH COUNTY
*Decision #AR-4019 (R)
39 FR 29702 - 8/16/74
(Sewer & Water, H,Hw) - See Statewide
FRANKLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
GASTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
GATES COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
GRAHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
GRANVILLE COUNTY
Decision #NC76-1121 (B)
41 FR 46805 - 10/22/76
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.

GREENE COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
GUILFORD COUNTY
(R) - See Alamance County
(Sewer & Water, H,Hw) - See Statewide
HALIFAX COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
HARNETT COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
HAYWOOD COUNTY

(Sewer & Water, H,Hw) -See Statewide
HENDERSON COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
HERTFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
(R) - See Beaufort County
HOKE COUNTY
(R) - See Chatham County
(Sewer & Water, H,Hw) - See STatewide
HYDE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
IREDELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
JACKSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
JOHNSTON COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
JONES COUNTY
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
LEE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
LENOIR COUNTY
(Sewer & Water, H,hw) - See Statewide
(B,R) - See Carteret County
LINCOLN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Burke County
MCDOWELL COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
MACON COUNTY
(Sewer & Water, H,Hw) - See Statewide
MADISON COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
MARTIN COUNTY
(R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.

MECKLENBURG COUNTY
Decision #NC75-1115 (B)
40 FR 59177 - 12/19/75
Mod. #1 - 41 FR 9721 - 3/5/76
(Sewer & Water, H,Hw) - See Statewide
MITCHELL COUNTY
(B) - See Avery County
(Sewer & Water, H,Hw) - See Statewide
MONTGOMERY COUNTY
(Sewer & Water, H,Hw) - See Statewide
MOORE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
NASH COUNTY
(B) - See Edgecombe County
(R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NEW HANOVER COUNTY
Decision #NC75-1054 (B)
40 FR 22723 - 5/23/75
Mod. #1 - 40 FR 43420 - 9/19/75
Mod. #2 - 41 FR 20128 - 5/14/76
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NORTHAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
ONSLOW COUNTY
(D) - See Beaufort County
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
ORANGE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Durham County
PAMLICO COUNTY
(B) - See Carteret County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
PASQUOTANK COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PENDER COUNTY
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERQUIMANS COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERSONS COUNTY
(Sewer & Water, H,Hw) - See Statewide
PITT COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
POLK COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
RANDOLPH COUNTY
(R) - See Alamance County
(Sewer & Water, H,Hw) - See Statewide
RICHMOND COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROBESON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROCKINGHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County

NORTH CAROLINA (Cont'd)

ROWAN COUNTY
(Sewer & Water, H,Hw) - See Statewide
RUTHERFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Burke County
SAMPSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chatham County
SCOTLAND COUNTY
(Sewer & Water, H,Hw) - See Statewide
STANLY COUNTY
(Sewer & Water, H,Hw) - See Statewide
STOKES COUNTY
(Sewer & Water, H,Hw) - See Statewide
SURRY COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Forsyth County
SWAIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
TRANSYLVANIA COUNTY
Decision #NC76-1087 (B)
41 FR 36399 - 8/27/76
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
TYRRELL County
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
UNION COUNTY
(Sewer & Water, H,Hw) - See Statewide
VANCE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
WAKE COUNTY
Decision #NC76-1044 (B)
41 FR 14294 - 4/2/76
(R) - See Durham County
(Sewer & Water, H,Hw) - See Statewide
WARREN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
WASHINGTON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
WATAUGA COUNTY
(B) - See Avery County
(Sewer & Water, H,Hw) - See Statewide
WAYNE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
WILKES COUNTY
Decision #NC76-1068 (B)
41 FR 22011 - 5/28/76
(Sewer & Water, H,Hw) - See Statewide
WILSON COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
YADKIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
YANCEY COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.

MECKLENBURG COUNTY
Decision #NC75-1115 (B)
40 FR 59177 - 12/19/75
Mod. #1 - 41 FR 9721 - 3/5/76
(Sewer & Water, H,Hw) - See Statewide
MITCHELL COUNTY
(B) - See Avery County
(Sewer & Water, H,Hw) - See Statewide
MONTGOMERY COUNTY
(Sewer & Water, H,Hw) - See Statewide
MOORE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
NASH COUNTY
(B) - See Edgecombe County
(R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NEW HANOVER COUNTY
Decision #NC75-1054 (B)
40 FR 22723 - 5/23/75
Mod. #1 - 40 FR 43420 - 9/19/75
Mod. #2 - 41 FR 20128 - 5/14/76
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NORTHAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
ONSLOW COUNTY
(D) - See Beaufort County
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
ORANGE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Durham County
PAMLICO COUNTY
(B) - See Carteret County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
PASQUOTANK COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PENDER COUNTY
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERQUIMANS COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERSONS COUNTY
(Sewer & Water, H,Hw) - See Statewide
PITT COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
POLK COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
RANDOLPH COUNTY
(R) - See Alamance County
(Sewer & Water, H,Hw) - See Statewide
RICHMOND COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROBESON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROCKINGHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County

NORTH CAROLINA (Cont'd)

ROWAN COUNTY
(Sewer & Water, H,Hw) - See Statewide
RUTHERFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Burke County
SAMPSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chatham County
SCOTLAND COUNTY
(Sewer & Water, H,Hw) - See Statewide
STANLY COUNTY
(Sewer & Water, H,Hw) - See Statewide
STOKES COUNTY
(Sewer & Water, H,Hw) - See Statewide
SURRY COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Forsyth County
SWAIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
TRANSYLVANIA COUNTY
Decision #NC76-1087 (B)
41 FR 36399 - 8/27/76
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
TYRRELL County
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
UNION COUNTY
(Sewer & Water, H,Hw) - See Statewide
VANCE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
WAKE COUNTY
Decision #NC76-1044 (B)
41 FR 14294 - 4/2/76
(R) - See Durham County
(Sewer & Water, H,Hw) - See Statewide
WARREN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
WASHINGTON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
WATAUGA COUNTY
(B) - See Avery County
(Sewer & Water, H,Hw) - See Statewide
WAYNE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
WILKES COUNTY
Decision #NC76-1068 (B)
41 FR 22011 - 5/28/76
(Sewer & Water, H,Hw) - See Statewide
WILSON COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
YADKIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
YANCEY COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH DAKOTA

STATEWIDE
Decision #ND75-5109 (Hw)
40 FR 40022 - 8/29/75
ADAMS COUNTY
(Hw) - See Statewide
BARNES COUNTY
(Hw) - See Statewide
BENSON COUNTY
(Hw) - See Statewide
BILLINGS COUNTY
(Hw) - See Statewide
BOTTINEAU COUNTY
(Hw) - See Statewide
BOWMAN COUNTY
(Hw) - See Statewide
BURKE COUNTY
(Hw) - See Statewide
BURLEIGH COUNTY
Decision #ND76-5108 (B)
41 FR 51353 - 11/19/76
(Hw) - See Statewide
CASS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
CAVALIER COUNTY
(Hw) - See Statewide
DICKEY COUNTY
(Hw) - See Statewide
DIVIDE COUNTY
(Hw) - See Statewide
DUNN COUNTY
(Hw) - See Statewide
EDDY COUNTY
(Hw) - See Statewide
EMMONS COUNTY
(Hw) - See Statewide
FOSTER COUNTY
(Hw) - See Statewide
GOLDEN VALLEY COUNTY
(Hw) - See Statewide

NORTH DAKOTA (Cont'd)

GRAND FORKS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
GRANT COUNTY
(Hw) - See Statewide
GRIGGS COUNTY
(Hw) - See Statewide
HETTINGER COUNTY
(Hw) - See Statewide
KIDDER COUNTY
(Hw) - See Statewide
LA MOURE COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
McHENRY COUNTY
(Hw) - See Statewide
McINTOSH COUNTY
(Hw) - See Statewide
McKENZIE COUNTY
(Hw) - See Statewide
McLEAN COUNTY
(Hw) - See Statewide
MERCER COUNTY
(Hw) - See Statewide
MORTON COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
MOUNTRAIL COUNTY
(Hw) - See Statewide
NELSON COUNTY
(Hw) - See Statewide
OLIVER COUNTY
(Hw) - See Statewide
PEMBINA COUNTY
(Hw) - See Statewide
PIERCE COUNTY
(Hw) - See Statewide
RAMSEY COUNTY
(Hw) - See Statewide
RANSOM COUNTY
(Hw) - See Statewide
RENVILLE COUNTY
(Hw) - See Statewide
RICHLAND COUNTY
(Hw) - See Statewide
(B) - See Burleigh County

NORTH DAKOTA (Cont'd)

ROLETTE COUNTY
(Hw) - See Statewide
SARGENT COUNTY
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SIOUX COUNTY
(Hw) - See Statewide
SLOPE COUNTY
(Hw) - See Statewide
STARK COUNTY
(Hw) - See Statewide
STEELE COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
STUTSMAN COUNTY
(Hw) - See Statewide
TOWNER COUNTY
(Hw) - See Statewide
TRAILL COUNTY
(Hw) - See Statewide
WALSH COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WARD COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WELLS COUNTY
(Hw) - See Statewide
WILLIAMS COUNTY
(Hw) - See Statewide

OHIO

STATEWIDE
Decision #OH76-2041 (H,Hw)
41 FR 15300 - 4/9/76
Mod. #1 - 41 FR 32101 - 7/30/76
Mod. #2 - 41 FR 34486 - 8/13/76
Mod. #3 - 41 FR 37477 - 9/3/76
Mod. #4 - 41 FR 52183 - 11/26/76
ADAMS COUNTY
Decision #IL76-5026 (D)
41 FR 12858 - 3/26/76
(H,Hw) - See Statewide
ALLEN COUNTY
Decision #OH76-2071 (B)
41 FR 22752 - 6/4/76
(H,Hw) - See Statewide
ASHLAND COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd.)

ASHTABULA COUNTY
Decision #OH76-2074 (B,R)
41 FR 23911 - 6/11/76
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(H,Hw) - See Statewide
ATHENS COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
AUGLAIZE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BELMONT COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
BUTLER COUNTY
Decision #OH76-2062 (B)
41 FR 21120 - 5/21/76
Mod. #1 - 41 FR 47716 - 10/29/76
Decision #OH76-2030 (R)
41 FR 9800 - 3/5/76
(H,Hw) - See Statewide
CARROLL COUNTY
(H,Hw) - See Statewide
CHAMPAIGN COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
Decision #OH76-2070 (B)
41 FR 22751 - 6/4/76
Decision #AP-684 (R)
38 FR 14049 - 5/25/73
(H,Hw) - See Statewide
CLERMONT COUNTY
Decision #OH76-2029 (R)
41 FR 8739 - 2/27/76
(B) - See Hamilton County
(D) - See Adams County
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
COLUMBIANA COUNTY
Decision #OH76-2060 (B)
41 FR 19001 - 5/7/76
(H,Hw) - See Statewide
COSHOCTON COUNTY
(H,Hw) - See Statewide
CRAWFORD COUNTY
(H,Hw) - See Statewide
CUYAHOGA COUNTY
Decision #OH76-2069 (B,R)
41 FR 23909 - 6/11/76
Mod. #1 - 41 FR 51250 - 11/19/76
(D) - See Ashtabula County
(H,Hw) - See Statewide

OHIO (Cont'd)

DARKE COUNTY
(H,Hw) - See Statewide
DEFIANCE COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
Decision #AM-420 (R)
36 FR 15963 - 8/18/71
Mod. #1 - 38 FR 4630 - 2/16/73
(H,Hw) - See Statewide
ERIE COUNTY
Decision #OH76-2075 (B)
41 FR 23913 - 6/11/76
(D) - See Ashtabula County
(H,Hw) - See Statewide
FAIRFIELD COUNTY
(R) - See Delaware County
(H,Hw) - See Statewide
FAYETTE COUNTY
(H,Hw) - See Statewide
FRANKLIN COUNTY
Decision #OH76-2115 (B)
41 FR 42129 - 9/24/76
(R) - See Delaware County
(H,Hw) - See Statewide
FULTON COUNTY
(B) - See Lucas County
(H,Hw) - See Statewide
GALLIA COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
GEAUGA COUNTY
(H,Hw) - See Statewide
GREENE COUNTY
Decision #OH76-2118 (B)
41 FR 43633 - 10/1/76
Mod. #1 - 41 FR 53234 - 12/3/76
Decision #OH75-2109 (R)
40 FR 42498 - 9/12/75
(H,Hw) - See Statewide
GUERNSEY COUNTY
(H,Hw) - See Statewide
HAMILTON COUNTY
Decision #OH76-2110 (B)
41 FR 40402 - 9/17/76
(D) - See Adams County
(R) - See Clermont County
(H,Hw) - See Statewide
HANCOCK COUNTY
Decision #OH76-2076 (B)
41 FR 24851 - 6/18/76
Mod. #1 - 41 FR 37477 - 9/3/76
(H,Hw) - See Statewide
HARDIN COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd)

HARRISON COUNTY
(H,Hw) - See Statewide
HENRY COUNTY
(H,Hw) - See Statewide
HIGHLAND COUNTY
(H,Hw) - See Statewide
HOCKING COUNTY
(H,Hw) - See Statewide
HOLMES COUNTY
(H,Hw) - See Statewide
HURON COUNTY
(B) - See Erie County
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
KNOX COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
(B,R) - See Cuyahoga County
(D) - See Ashtabula County
(H,Hw) - See Statewide
LAWRENCE COUNTY
Decision #OH76-2088 (B)
41 FR 32089 - 7/30/76
(D) - See Adams County
(H,Hw) - See Statewide
LICKING COUNTY
Decision #OH76-2077 (B)
41 FR 24849 - 6/18/76
(H,Hw) - See Statewide
(R) - See Delaware County
LOGAN COUNTY
(H,Hw) - See Statewide
LORAIN COUNTY
Decision #OH76-2073 (B)
41 FR 22754 - 6/4/76
(D) - See Ashtabula County
(H,Hw) - See Statewide
LUCAS COUNTY
Decision #OH76-2117 (B)
41 FR 43631 - 10/1/76
(H,Hw) - See Statewide
MADISON COUNTY
(B) - See Franklin County
(R) - See Delaware County
(H,Hw) - See Statewide
MAHONING COUNTY
Decision #OH76-2085 (B,R)
41 FR 30557 - 7/23/76
(H,Hw) - See Statewide

OHIO (Cont'd)

MARION COUNTY
(H,Hw) - See Statewide
MEDINA COUNTY
(H,Hw) - See Statewide
MEIGS COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
MERCER COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
MIAMI COUNTY
(R) - See Greene County
(H,Hw) - See Statewide
MONROE COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(B) - See Greene County
(R) - See Greene County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
MORROW COUNTY
(H,Hw) - See Statewide
MUSKINGUM COUNTY
Decision #OH76-2086 (B)
41 FR 32169 - 7/30/76
(H,Hw) - See Statewide
NOBLE COUNTY
(H,Hw) - See Statewide
OTTAWA COUNTY
(R) - See Erie County
(D) - See Ashtabula County
(H,Hw) - See Statewide
PAULDING COUNTY
(H,Hw) - See Statewide
PERRY COUNTY
(H,Hw) - See Statewide
PICKAWAY COUNTY
(B) - See Franklin County
(R) - See Delaware County
(H,Hw) - See Statewide
PIKE COUNTY
Decision #OH76-2087 (B)
41 FR 30559 - 7/23/76
Mod. #1 - 41 FR 52184 - 11/26/76
(H,Hw) - See Statewide
PORTAGE COUNTY
Decision #OH76-2089 (B,R)
41 FR 30561 - 7/23/76
(H,Hw) - See Statewide

OHIO (Cont'd.)

PREBLE COUNTY
(R) - See Greene County
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RICHLAND COUNTY
Decision #OH76-2053 (B)
41 FR 16303 - 4/16/76
(H,Hw) - See Statewide
ROSS COUNTY
(B) - See Pike County
(H,Hw) - See Statewide
SANDUSKY COUNTY
(B) - See Erie County
(D) - See Ashtabula County
(H,Hw) - See Statewide
SCIOTO COUNTY
(B) - See Pike County
(D) - See Adams County
(H,Hw) - See Statewide
SENECA COUNTY
(H,Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
STARK COUNTY
Decision #OH76-2090 (B,R)
41 FR 32171 - 7/30/76
(H,Hw) - See Statewide
SUMMITT COUNTY
Decision #OH76-2091 (B,R)
41 FR 32173 - 7/30/76
(H,Hw) - See Statewide
TRUMBULL COUNTY
Decision #OH76-2092 (B,R)
41 FR 34528 - 8/13/76
(H,Hw) - See Statewide
TUSCARAWAS COUNTY
Decision #OH76-2054 (B)
41 FR 17285 - 4/23/76
(H,Hw) - See Statewide
UNION COUNTY
(H,Hw) - See Statewide
VAN WERT COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
VINTON COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd.

WARREN COUNTY
(R) - See Butler County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
WAYNE COUNTY
(H,Hw) - See Statewide
WILLIAMS COUNTY
(H,Hw) - See Statewide
WOOD COUNTY
Decision #OH76-2055 (B)
41 FR 18261 - 4/30/76
(H,Hw) - See Statewide
WYANDOT COUNTY
(H,Hw) - See Statewide

OKLAHOMA

STATEWIDE (Except the City of Muskogee)
Decision #OK76-4073 (Constr., Alteration, and/or repair of streets, highways, runways, erosion control structures, well drilling, and water, and sewer utilities)
41 FR 16422 - 4/16/7
ADAIR COUNTY
(B) - See Muskogee County
(H,Hw) - See Statewide
ALFALFA COUNTY
(H,Hw) - See Statewide

ATOKA COUNTY
(H,Hw) - See Statewide
BEAVER COUNTY
(H,Hw) - See Statewide
BECKHAM COUNTY
(H,Hw) - See Statewide
BLAINE COUNTY
(H,Hw) - See Statewide
BRYAN COUNTY
(H,Hw) - See Statewide
Decision #OK76-4001 (R)
41 FR 2604 - 1/16/76
CADDO COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
CANADIAN COUNTY
(H,Hw) - See Statewide
Decision #OK76-4136 (B)
41 FR 32177 - 7/30/76
Mod. #1 - 41 FR 35328 - 8/20/76
Mod. #2 - 41 FR 42050 - 9/24/76
Mod. #3 - 41 FR 43566 - 10/1/76
Mod. #4 - 41 FR 44601 - 10/8/76
Decision #OK76-4109 (R)
41 FR 27648 - 7/2/76
CARTER COUNTY
(H,Hw) - See Statewide
CHEROKEE COUNTY
(B) - See Muskogee County
(H,Hw) - See Statewide
CHOCTAW COUNTY
(H,Hw) - See Statewide
CIMARRON COUNTY
(H,Hw) - See Statewide
CLEVELAND COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
COAL COUNTY
(H,Hw) - See Statewide

OKLAHOMA (Cont'd.)

COMANCHE COUNTY
(H,Hw) - See Statewide
Decision #OK76-4002 (R)
41 FR 2604 - 1/16/76
Mod. #1 - 41 FR 16312 - 4/16/76
Decision #OK76-4138 (B)
41 FR 32182 - 7/30/76
Mod. #1 - 41 FR 35329 - 8/20/76
Mod. #2 - 41 FR 47717 - 10/29/76
COTTON COUNTY
(H,Hw) - See Statewide
CRAIG COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
CREEK COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
DEWEY COUNTY
(H,Hw) - See Statewide
ELLIS COUNTY
(H,Hw) - See Statewide
GARFIELD COUNTY
Decision #OK76-4160 (B)
41 FR 43629 - 10/1/76
(H,Hw) - See Statewide
GARVIN COUNTY
(H,Hw) - See Statewide
GRADY COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide
GREER COUNTY
(H,Hw) - See Statewide
HARMON COUNTY
(H,Hw) - See Statewide
HARPER COUNTY
(H,Hw) - See Statewide
HASKELL COUNTY
(H,Hw) - See Statewide
HUGHES COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
JOHNSTON COUNTY
(H,Hw) - See Statewide
KAY COUNTY
(H,Hw) - See Statewide
KINGFISHER COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide

OKLAHOMA (Cont'd.)

KIOWA COUNTY
(H,Hw) - See Statewide
LATIMER COUNTY
(H,Hw) - See Statewide
LEFLORE COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
LOGAN COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
LOVE COUNTY
(H,Hw) - See Statewide
McCLAIN COUNTY
H,Hw) - See Statewide
(B) - See Canadian County
McCURTAIN COUNTY
(H,Hw) - See Statewide
MCINTOSH COUNTY
Decision #OK76-4137 (B)
41 FR 32180 - 7/30/76
Mod. #1 - 41 FR 35329 - 8/20/76
Mod. #2 - 41 FR 51251 - 11/19/76
(H,Hw) - See Statewide
MAJOR COUNTY
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MAYES COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
MURRAY COUNTY
(H,Hw) - See Statewide
MUSKOGEE COUNTY
Decision #OK76-4139 (B,H,Hw)
41 FR 32184 - 7/30/76
Mod. #1 - 41 FR 35329 - 8/20/76
Mod. #2 - 41 FR 51251 - 11/19/76
(H,Hw) - See Statewide
NOBLE COUNTY
(H,Hw) - See Statewide
NOWATA COUNTY
(H,Hw) - See Statewide
OKFUSKEE COUNTY
(H,Hw) - See Statewide
OKLAHOMA COUNTY
(B,R) - See Canadian County
(H,Hw) - See Statewide
OKMULGEE COUNTY
(H,Hw) - See Statewide
OSAGE COUNTY
(H,Hw) - See Statewide
(R) - See Tulsa County
OTTAWA COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
PAWNEE COUNTY
(H,Hw) - See Statewide

OKLAHOMA (Cont'd.

PAYNE COUNTY
(H,Hw) - See Statewide
PITTSBURG COUNTY
Decision #OK76-4017 (B)
41 FR 5548 - 2/6/76
Mod. #1 - 41 FR 24837 - 6/18/76
Mod. #2 - 41 FR 32103 - 7/30/76
Mod. #3 - 41 FR 35328 - 8/20/76
Mod. #4 - 41 FR 36377 - 8/27/76
Mod. #5 - 41 FR 51251 - 11/12/76
(H,Hw) - See Statewide
PONTOTOC COUNTY
(H,Hw) - See Statewide
POTTAWATOMIE COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
PUSHMATAHA COUNTY
(H,Hw) - See Statewide
ROGERS COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
ROGERS MILLS COUNTY
(H,Hw) - See Statewide
SEMINOLE COUNTY
(B) - See Oklahoma County
(H,Hw) - See Statewide
SEQUOYAH COUNTY
(H,Hw) - See Statewide
STEPHENS COUNTY
(H,Hw) - See Statewide
TEXAS COUNTY
(H,Hw) - See Statewide
TILLMAN COUNTY
(H,Hw) - See Statewide
TULSA COUNTY
Decision #OK76-4186 (B)
41 FR 51359 - 11/19/76
WAGONER COUNTY
Decision #OK76-4189 (B)
41 FR 52278 - 11/26/76
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WASHITA COUNTY
(H,Hw) - See Statewide
WOODS COUNTY
(H,Hw) - See Statewide
WOODWARD COUNTY
(H,Hw) - See Statewide

OREGON

STATEWIUE
Decision #OR76-5057 (B,H,Hw,D)
41 FR 26520 - 6/25/76
Mod. #1 - 41 FR 42051 - 9/24/76
Mod. #2 - 41 FR 46818 - 10/22/76
Mod. #3 - 41 FR 48986 - 11/5/76
BAKER COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CLACKAMAS COUNTY
Decision #OR75-5042 (R)
40 FR 15312 - 4/4/75
Mod. #1 - 40 FR 48001 - 10/10/75
Mod. #2 - 40 FR 52244 - 11/7/75
(B,H,Hw,D) - See Statewide
CLATSOP COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COOS COUNTY
(B,H,Hw,D) - See Statewide
CROOK COUNTY
(B,H,Hw,D) - See Statewide
CURRY COUNTY
(B,H,Hw,D) - See Statewide
DESCHUTES COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
GILLIAM COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
HARNEY COUNTY
(B,H,Hw,D) - See Statewide
HOOD RIVER COUNTY
(B,H,Hw,D) - See Statewide
JACKSON COUNTY
(B,H,Hw,D) - See Statewide
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
JOSEPHINE COUNTY
(B,H,Hw,D) - See Statewide
KLAMATH COUNTY
(B,H,Hw,D) - See Statewide
LAKE COUNTY
(B,H,Hw,D) - See Statewide
LANE COUNTY
(B,H,Hw,D) - See Statewide
Decision #OR75-5122 (R)
40 FR 45989 - 10/3/75
Mod. #1 - 40 FR 52244 - 11/7/75
LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
LINN COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Lane County

OREGON (Cont'd.)

MALHEUR COUNTY
(B,H,Hw,D) - See Statewide
MARION COUNTY
(R) - See Lane County
(B,H,Hw,D) - See Statewide
MORROW COUNTY
(B,H,Hw,D) - See Statewide
MULTNOMAH COUNTY
(R) - See Clackamas County
(B,H,Hw,D) - See Statewide
POLK COUNTY
(B,H,Hw,D) - See Statewide
SHERMAN COUNTY
(B,H,Hw,D) - See Statewide
TILLAMOOK COUNTY
(B,H,Hw,D) - See Statewide
UMATILLA COUNTY
(B,H,Hw,D) - See Statewide
UNION COUNTY
(B,H,Hw,D) - See Statewide
WALLOWA COUNTY
(B,H,Hw,D) - See Statewide
WASCO COUNTY
(B,H,Hw,D) - See Statewide
WASHINGTON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clackamas County
WHEELER COUNTY
(B,H,Hw,D) - See Statewide
YAMHILL COUNTY
(B,H,Hw,D) - See Statewide

PENNSYLVANIA

ADAMS COUNTY
Decision #PA76-3163 (H,Hw)
41 FR 19020 - 5/7/76
Mod. #1 - 41 FR 45797 - 10/15/76
Mod. #2 - 41 FR 47717 - 10/29/76
Decision #PA76-3204 (B)
41 FR 24870 - 6/18/76
Mod. #1 - 41 FR 28467 - 7/9/76
Mod. #2 - 41 FR 32105 - 7/30/76
Mod. #3 - 41 FR 43567 - 10/1/76
Mod. #4 - 41 FR 44604 - 10/8/76
ALLEGHENY COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
Decision #PA75-3070 (R)
40 FR 30433 - 8/18/75
Mod. #1 - 40 FR 34555 - 8/15/75
Mod. #2 - 41 FR 4738 - 1/30/76
Mod. #3 - 41 FR 26428 - 6/25/76
ARMSTRONG COUNTY
(H,Hw) - See Butler County
Decision #PA76-3206 (B)
41 FR 26529 - 6/25/76
Mod. #1 - 41 FR 42052 - 9/24/76
Mod. #2 - 41 FR 52185 - 11/26/76
BEAVER COUNTY
(H,Hw) - See Armstrong County
(B) - See Butler County
BEDFORD COUNTY
Decision #PA76-3250 (B)
41 FR 42131 - 9/24/76
Mod. #1 - 41 FR 52186 - 11/26/76
(H,Hw) - See Butler County
BERKS COUNTY
Decision #PA76-3178 (B)
41 FR 23919 - 7/9/76
Mod. #1 - 41 FR 28465 - 7/9/76
Mod. #2 - 41 FR 32104 - 7/30/76
Mod. #3 - 41 FR 43567 - 10/1/76
Mod. #4 - 41 FR 44602 - 10/8/76
Mod. #5 - 41 FR 52185 - 11/26/76
(H,Hw) - See Adams County
BLAIR COUNTY
Decision #PA76-3165 (B)
41 FR 18274 - 4/30/76
(Hw) - See Butler County

PENNSYLVANIA (Cont'd.

BRADFORD COUNTY
Decision #PA76-3208 (B)
41 FR 27535 - 7/2/76
Mod. #1 - 41 FR 43567 - 10/1/76
Mod. #2 - 41 FR 44604 - 10/8/76
(H,Hw) - See Adams County
BUCKS COUNTY
Decision #PA76-3247 (B,R)
41 FR 40409 - 9/17/76
Mod. #1 - 41 FR 44605 - 10/8/76
Mod. #2 - 41 FR 48987 - 11/5/76
Mod. #3 - 41 FR 53235 - 12/3/76
Decision #PA76-3169 (H,Hw)
41 FR 21133 - 5/21/76

Mod. #1 - 41 FR 45797 - 6/25/76
Mod. #2 - 41 FR 45797 - 10/15/76
Mod. #3 - 41 FR 53235 - 12/3/76
BUTLER COUNTY
(B) - See Armstrong County
Decision #PA76-3158 (H,Hw)
41 FR 15315 - 4/9/76
Mod. #1 - 41 FR 20129 - 5/14/76
Mod. #2 - 41 FR 45796 - 10/15/76
(H,Hw) - See Butler County
(B) - See Bedford County
CAMERON COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CARBON COUNTY
(H,Hw) - See Adams County
CENTRE COUNTY
(H,Hw) - See Butler County
CHESTER COUNTY
(B,H,Hw,R) - See Bucks County
CLARION COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CLEARFIELD COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County

PENNSYLVANIA (Cont'd.

CLINTON COUNTY
(H,Hw) - See Butler County
COLUMBIA COUNTY
Decision #PA76-3210 (B)
41 FR 30486 - 7/23/76
Mod. #1 - 41 FR 44605 - 10/8/76
(H,Hw) - See Adams County
CRAWFORD COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CUMBERLAND COUNTY
Decision #PA76-3175 (B)
41 FR 21137 - 5/21/76
Mod. #1 - 41 FR 24840 - 6/18/76
Mod. #2 - 41 FR 28465 - 7/9/76
Mod. #3 - 41 FR 32104 - 7/30/76
Mod. #4 - 41 FR 42150 - 9/24/76
Mod. #5 - 41 FR 44602 - 10/8/76
(H,Hw) - See Adams County
DAUPHIN COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
DELAWARE COUNTY
(B,H,Hw,R) - See Bucks County
ELK COUNTY
Decision #PA76-3251 (B)
41 FR 42143 - 9/24/76
Mod. #1 - 41 FR 44606 - 10/8/76
Mod. #2 - 41 FR 52186 - 11/26/76
(H,Hw) - See Butler County
ERIE COUNTY
Decision #PA76-3177 (B)
41 FR 23916 - 7/9/76
Mod. #1 - 41 FR 26428 - 6/25/76
Mod. #2 - 41 FR 44602 - 10/8/76
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(H,Hw) - See Butler County

PENNSYLVANIA (cont'd.

FAYETTE COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
FOREST COUNTY
(B) - See Elk County
(H,Hw) - See Butler County
FRANKLIN COUNTY
Decision #PA75-3060 (B)
40 FR 54412 - 11/21/75
Mod. #1 - 41 FR 12850 - 3/26/76
Mod. #2 - 41 FR 16312 - 4/16/76
Mod. #3 - 41 FR 18266 - 4/30/76
(H,Hw) - See Butler County
FULTON COUNTY
(H,Hw) - See Butler County
GREENE COUNTY
Decision #PA76-3211 (B)
41 FR 32091 - 7/30/76
Mod. #1 - 41 FR 42054 - 9/24/76
Mod. #2 - 41 FR 52185 - 11/26/76
(H,Hw) - See Butler County
HUNTINGDON COUNTY
(H,Hw) - See Butler County
INDIANA COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
JEFFERSON COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
JUNIATA COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
LACKAWANNA COUNTY
Decision #PA76-3179 (B)
41 FR 24855 - 6/18/76
Mod. #1 - 41 FR 28465 - 7/9/76
Mod. #2 - 41 FR 32104 - 7/30/76
Mod. #3 -41 FR 47717 - 10/29/76
(H,Hw) - See Adams County
LANCASTER COUNTY
Decision #PA76-3186 (B)
41 FR 24866 - 6/18/76
Mod. #1 - 41 FR 28466 - 7/9/76
Mod. #2 - 41 FR 32105 - 7/30/76
Mod. #3 - 41 FR 43567 - 10/1/76
Mod. #4 - 41 FR 44603 - 10/8/76
Mod. #5 - 41 FR 53235 - 12/3/76
(H,Hw) - See Adams County
LAWRENCE COUNTY
Decision #PA76-3246 (B)
41 FR 40506 - 9/17/76
Mod. #1 - 41 FR 44605 - 10/8/76
Mod. #2 - 41 FR 52186 - 11/26/76
(H,Hw) - See Butler County

PENNSYLVANIA (Cont'd.

LEBANON COUNTY
Decision #PA76-3176 (B)
41 FR 24853 - 6/18/76
Mod. #1 - 41 FR 28464 - 7/9/76
Mod. #2 - 41 FR 32104 - 7/30/76
Mod. #3 - 41 FR 42051 - 9/24/76
Mod. #4 - 41 FR 44602 - 10/8/76
Mod. #5 - 41 FR 53235 - 12/3/76
(H,Hw) - See Adams County
LEHIGH COUNTY
Decision #PA76-3183 (B)
41 FR 24862 - 6/18/76
Mod. #1 - 41 FR 28466 - 7/9/76
Mod. #2 - 41 FR 32104 - 7/30/76
Mod. #3 - 41 FR 44603 - 10/8/76
Mod. #4 - 41 FR 52185 - 11/26/76
(H,Hw) - See Adams County
LUZERNE COUNTY
Decision #PA76-3271 (B)
41 FR 48993 - 11/5/76
(H,Hw) - See Adams County
LYCOMING COUNTY
Decision #PA76-3185 (B)
41 FR 24864 - 6/18/76
Mod. #1 - 41 FR 28466 - 7/9/76
Mod. #2 - 41 FR 32105 - 7/30/76
Mod. #3 - 41 FR 43567 - 10/1/76
Mod. #4 - 41 FR 44603 - 10/8/76
Mod. #5 - 41 FR 53235 - 12/3/76

(H,Hw) - See Adams County
MC KEAN COUNTY
(B) - See Forest County
(H,Hw) - See Butler County
MERCER COUNTY
(B) - See Lawrence County
(H,Hw) - See Butler County
MIFFLIN COUNTY
(H,Hw) - See Butler County
MONROE COUNTY
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.

MONTGOMERY COUNTY
(B,H,Hw,R) - See Bucks County
MONTOUR COUNTY
(B) - See Columbia County
(H,Hw) - See Adams County
NORTHAMPTON COUNTY
(H,Hw) - See Adams County
Decision #PA76-3187 (B)
41 FR 24868 - 6/18/76
Mod. #1 - 41 FR 28466 - 7/9/76
Mod. #2 - 41 FR 32105 - 7/30/76
Mod. #3 - 41 FR 44604 - 10/8/76
Mod. #4 - 41 FR 52185 - 11/26/76
Mod. #5 - 41 FR 53235 - 12/3/76
NORTHUMBERLAND COUNTY
Decision #PA76-3182 (B)
41 FR 24860 - 6/18/76
Mod. #1 - 41 FR 28466 - 7/9/76
Mod. #2 - 41 FR 32105 - 7/30/76
Mod. #3 - 41 FR 44603 - 10/8/76
Mod. #4 - 41 FR 53235 - 12/3/76
Mod. #7 - 41 FR 11729 - 3/19/76
(H,Hw) - See Adams County
PERRY COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
PHILADELPHIA COUNTY
Decision #CT76-5118 (D)
41 FR 53250 - 12/3/76
(B,H,Hw,R) - See Bucks County
PIKE COUNTY
(H,Hw) - See Adams County
POTTER COUNTY
(B) - See Greene County
(H,Hw) - See Butler County
SCHYUKILL COUNTY
Decision #PA76-3181 (B)
41 FR 24858 - 6/18/76
Mod. #1 - 41 FR 28466 - 7/9/76
Mod. #2 - 41 FR 32105 - 7/30/76
Mod. #3 - 41 FR 38709 - 9/10/76
Mod. #4 - 41 FR 45798 - 10/15/76
MMod. #5 - 41 FR 47717 - 10/29/76
(H,Hw) - See Adams County
SNYDER COUNTY
(B) - See Columbia County
(H,Hw) - See Adams County
SOMERSET COUNTY
(B) - See Greene County
(H,Hw) - See Butler County
SULLIVAN COUNTY
Decision #PA75-3205 (B)
41 FR 24872 - 6/18/76
Mod. #1 - 41 FR 28467 - 7/9/76
Mod. #2 - 41 FR 32106 - 7/30/76
Mod. #3 - 41 FR 44604 - 10/8/76
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.

SUSQUEHANNA COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
TIOGA COUNTY
(B) - See Bradford County
(H,Hw) - See Adams County
UNION COUNTY
(B) - See Bradford County
(H,Hw) - See Adams County
VENANGO COUNTY
(H,Hw) - See Butler County
(B) - See Bedford County
WARREN COUNTY
(B) - See Elk County
(H,Hw) - See Butler County
WASHINGTON COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
WAYNE COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
WESTMORELAND COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
WYCOMING COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
YORK COUNTY
(B,H,Hw) - See Adams Co. (Excluding New Cumberland Depot)
(B) - See Cumberland County (New Cumberland Depot)
(H,Hw) - See Adams County (New Cumberland Depot)

PUERTO RICO

PUERTO RICO
Decision #PR75-3091 (R)
40 FR 33644 - 8/8/75
Mod. #1 - 40 FR 59664 - 12/29/75
Decision #PR75-3090 (B)
40 FR 33643 - 8/8/75
Mod. #1 - 40 FR 59664 - 12/29/75
Decision #PR75-3089 (H,Hw)
40 FR 33643 - 8/8/75

RHODE ISLAND

STATEWIDE
Decision #CT76-5118 (D)
41 FR 53250 - 12/3/76
BRISTOL COUNTY
Decision #RI76-2150 (B,H,Hw,R, & Marine)
41 FR 48996 - 11/5/76
(D) - See Statewide
KENT COUNTY
(B,H,Hw, R, & Marine) - See Bristol Co.
(D) - See Statewide
NEWPORT COUNTY
Decision #RI76-2151 (B,H,Hw,R, & Marine)
41 FR 50186 - 11/12/76
(D) - See Statewide
PROVIDENCE COUNTY
(D) - See Statewide
(B,H,Hw, R, & Marine) - See Bristol County
WASHINGTON COUNTY
Decision #RI76-2152 (B,H,Hw,R, & Marine)
41 FR 51362 - 11/19/76
(D) - See Statewide

SOUTH CAROLINA

STATEWIDE
Decision #SC75-1031 (Hw)
40 FR 12058 - 3/14/75
Mod. #1 - 40 FR 41355 - 9/5/75
Mod. #2 - 41 FR 10825 - 3/12/76
Mod. #3 - 41 FR 51251 - 11/19/76
Decision #SC75-1079 (H, W&S)
40 FR 41380 - 9/5/75
ABBEVILLE COUNTY
Decision #SC76-1053 (B)
41 FR 20146 - 5/14/76
(Sewer & Water, H,Hw) - See Statewide
AIKEN COUNTY
Decision #SC75-1029 (R)
40 FR 10900 - 3/7/75
Mod. #1 - 41 FR 1692 - 1/9/76
(Sewer & Water, H,Hw) - See Statewide

SOUTH CAROLINA

ALLENDALE COUNTY
Decision #SC75-1045 (R)
40 FR 16636 - 4/11/75
Mod. #1 - 41 FR 1692 - 1/9/76
(Sewer & Water, H,Hw) - See Statewide
ANDERSON COUNTY
Decision #SC76-1115 (R)
41 FR 44657 - 10/8/76
(Sewer & Water, H,Hw) - See Statewide
BAMBERG COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
BARNWELL COUNTY
(R) - See Aiken County
(Sewer & Water, H,Hw) - See Statewide
BEAUFORT COUNTY
Decision #SC75-1026 (B)
40 FR 8692 - 2/28/75
Mod. #1 - 40 FR 16496 - 4/11/75
Mod. #2 - 40 FR 27417 - 6/27/75
Mod. #3 - 41 FR 18267 - 4/30/76
Decision #MD75-3008 (D)
40 FR 3094 - 1/17/75
Mod. #1 - 40 FR 14204 - 3/28/75
(Sewer & Water, H,Hw) - See Statewide
BERKELEY COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
Decision #SC76-1067 (R)
41 FR 22024 - 5/29/76
Mod. #1 - 41 FR 23889 - 6/11/76
Decision #SC75-1055 (B)
40 FR 22785 - 5/23/75
Mod. #1 - 40 FR 25336 - 6/13/75
Mod. #2 - 41 FR 18267 - 4/30/76
Mod. #3 - 41 FR 20129 - 5/14/76
CALHOUN COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
CHARLESTON COUNTY
(B,R) - See Berkeley County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CHEROKEE COUNTY
Decision #SC76-1100 (R)
41 FR 38739 - 9/10/76
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide

SOUTH CAROLINA (Cont'd.

CHESTER COUNTY
Decision #AR-4009 (B)
39 FR 25778 - 7/12/74
(Sewer & Water, H,Hw) - See Statewide
CHESTERFIELD COUNTY
(Sewer & Water, H,Hw) - See Statewide
CLARENDON COUNTY
Decision #SC76-1088 (R)
41 FR 36399 - 8/27/76
(Sewer & Water, H,Hw) - See Statewide
COLLETON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
DARLINGTON COUNTY
Decision #SC75-1041 (B)
40 FR 14194 - 3/28/75
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
DILLON COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
DORCHESTER COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Berkeley County
EDGEFIELD COUNTY
(R) - See Aiken County
(Sewer & Water, H,Hw) - See Statewide
FAIRFIELD COUNTY
(B) - See Chester County
(Sewer & Water, H,Hw) - See Statewide
FLORENCE COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
GEORGETOWN COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
GREENVILLE COUNTY
Decision #SC75-1038 (B)
40 FR 12951 - 3/21/75
Mod. #1 - 40 FR 16496 - 4/11/75
Mod. #2 - 41 FR 43422 - 9/19/75
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
GREENWOOD COUNTY
(Sewer & Water, H,Hw) - See Statewide
HAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
HORRY COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
JASPER COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
KERSHAW COUNTY
(Sewer & Water, H,Hw) - See Statewide

SOUTH CAROLINA (Cont'd.

LANCASTER COUNTY
(B) - See Chester County
(Sewer & Water, H,Hw) - See Statewide
LAURENS COUNTY
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
LEE COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
LEXINGTON COUNTY
Decision #SC76-1037 (B)
41 FR 9801 - 3/5/76
Decision #SC76-1126 (R)
41 FR 47907 - 10/29/76
(Sewer & Water, H,Hw) - See Statewide
McCORMICK COUNTY
(Sewer & Water, H,Hw) - See Statewide
MARION COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
MARLBORO COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
NEWBERRY COUNTY
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
OCONEE COUNTY
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
ORANGEBURG COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
PICKENS COUNTY
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
RICHLAND COUNTY
(B,R) - See Lexington County
(Sewer & Water, H,Hw) - See Statewide
SALUDA COUNTY
(Sewer & Water, H,Hw) - See Statewide
SPARTANBURG COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
SUMTER COUNTY
Decision #SC76-1008 (B)
41 FR 1699 - 1/9/76
Mod. #1 - 41 FR 19013 - 5/7/76
(Sewer & Water, H,Hw) - See Statewide
(R) - See Clarendon County
UNION COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
(B) - See Abbeville County
WILLIAMSBURG COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
YORK COUNTY
(Sewer & Water, H,Hw) - See Statewide

SOUTH DAKOTA

STATEWIDE
Decision #SD76-5039 (H,Hw)
41 FR 17300 - 4/23/76
AURORA COUNTY
(H,Hw) - See Statewide
BEADLE COUNTY
(H,Hw) - See Statewide
BENNET COUNTY
(H,Hw) - See Statewide
BON HOMME COUNTY
(H,Hw) - See Statewide
BROOKINGS COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(H,Hw) - See Statewide
BRULE COUNTY
(H,Hw) - See Statewide
BUFFALO COUNTY
(H,Hw) - See Statewide
BUTTE COUNTY
(H,Hw) - See Statewide
CAMPBELL COUNTY
(H,Hw) - See Statewide
CHARLES MIX COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
(H,Hw) - See Statewide
CLAY COUNTY
(H,Hw) - See Statewide
CODINGTON COUNTY
(H,Hw) - See Statewide
CORSON COUNTY
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DAVISON COUNTY
(H,Hw) - See Statewide
DAY COUNTY
(H,Hw) - See Statewide
DEUEL COUNTY
(H,Hw) - See Statewide
DEWEY COUNTY
(H,Hw) - See Statewide
DOUGLAS COUNTY
(H,Hw) - See Statewide
EDMUNDS COUNTY
(H,Hw) - See Statewide
FALL RIVER COUNTY
(H,Hw) - See Statewide
FAULK COUNTY
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd.

GREGORY COUNTY
(H,Hw) - See Statewide
HAAKON COUNTY
(H,Hw) - See Statewide
HAMLIN COUNTY
(H,Hw) - See Statewide
HAND COUNTY
(H,Hw) - See Statewide
HANSON COUNTY
(H,Hw) - See Statewide
HARDING COUNTY
(H,Hw) - See Statewide
HUGHES COUNTY
(H,Hw) - See Statewide
HUTCHINSON COUNTY
(H,Hw) - See Statewide
HYDE COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JERAULD COUNTY
(H,Hw) - See Statewide
JONES COUNTY
(H,Hw) - See Statewide
KINGSBURY COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
(H,Hw) - See Statewide
LAWRENCE COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
LYMAN COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd)

MARSHALL COUNTY
(H,Hw) - See Statewide
Mc COOK COUNTY
(H,Hw) - See Statewide
Mc PHERSON COUNTY
(H,Hw) - See Statewide
MEADE COUNTY
Decision #SD76-5094 (B)
41 FR 42148 - 9/24/76
Mod. #1 - 41 FR 52186 - 11/26/76
(H,Hw) - See Statewide
MELLETTE COUNTY
(H,Hw) - See Statewide
MINER COUNTY
(H,Hw) - See Statewide
MINNEHAHA COUNTY
Decision #SD76-5093 (B)
41 FR 42147 - 9/24/76
Mod. #1 - 41 FR 52186 - 11/26/76
(H,Hw) - See Statewide
Decision #AQ-1091 (R)
39 FR 8146 - 3/1/74
Mod. #1 - 39 FR 14856 - 4/26/74
MOODY COUNTY
(H,Hw) - See Statewide
PENNINGTON COUNTY
(B) - See Meade County
(H,Hw) - See Statewide
PERKINS COUNTY
(H,Hw) - See Statewide
POTTER COUNTY
(H,Hw) - See Statewide
ROBERTS COUNTY
(H,Hw) - See Statewide
SANBORN COUNTY
(H,Hw) - See Statewide
SHANNON COUNTY
(H,Hw) - See Statewide
SPINK COUNTY
(H,Hw) - See Statewide
STANLEY COUNTY
(H,Hw) - See Statewide
SULLY COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd.)

TODD COUNTY
(H,Hw) - See Statewide
TRIPP COUNTY
(H,Hw) - See Statewide
TURNER COUNTY
(H,Hw) - See Statewide
UNION COUNTY
(H,Hw) - See Statewide
WALWORTH COUNTY
(H,Hw) - See Statewide
WASHABAUGH COUNTY
(H,Hw) - See Statewide
YANKTON COUNTY
(H,Hw) - See Statewide
ZIEBACH COUNTY
(H,Hw) - See Statewide

TENNESSEE

STATEWIDE
Decision #TN76-1001 (Hw)
41 FR 965 - 1/5/76
ANDERSON COUNTY
Decision #TN76-1072 (B)(Oak Ridge, Energy Research Development Administration Only)
41 FR 24874 - 6/18/76
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(Hw) - See Statewide
BEDFORD COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BENTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BLEDSOE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BLOUNT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BRADLEY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CAMPBELL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CANNON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CARROLL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CARTER COUNTY
Decision #TN76-1052 (B)
41 FR 17301 - 4/23/76
Decision #TN75-1098 (R)
41 FR 44476- 9/26/75
(F) - See Anderson County
(Hw) - See Statewide
CHEATHAM COUNTY
Decision #TN76-1010 (R)
41 FR 2614 - 1/16/76
(F) - See Anderson County
(Hw) - See Statewide
CHESTER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CLAIBORNE COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (CONT'D.)

CLAY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
COCKE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
COFFEE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CROCKETT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CUMBERLAND COUNTY
(Hw) - See Statewide
DAVIDSON COUNTY
Decision #TN75-1068 (B)
40 FR 42505 - 9/12/75
Mod. #1 - 40 FR 55616 - 11/28/75
Mod. #2 - 41 FR 22721 - 6/4/76
(R) - See Cheatham County
(F) - See Anderson County
(Hw) - See Statewide
DECATUR COUNTY
(F) - See Anderson County
(Hw) - See Statewide
DEKALB COUNTY
(F) - See Anderson County
(Hw) - See Statewide
DICKSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
DYER COUNTY
Decision #TN75-1074 (R)
40 FR 33645 - 8/8/75
Decision #TN76-1054 (B)
41 FR 21140 - 5/21/76
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
(F) - See Anderson County
(Hw) - See Statewide
FAYETTE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
FENTRESS COUNTY
(F)- See Anderson County
(Hw) - See Statewide
FRANKLIN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GIBSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(B,R) - See Dyer County

TENNESSEE (Cont'd)

GILES COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GRAINGER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GREENE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GRUNDY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAMBLEN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAMILTON COUNTY
Decision #TN76-1130 (B,H)
41 FR 51366 - 11/19/76
(F) - See Anderson County
(Hw) - See Statewide
HANCOCK COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HARDEMAN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HARDIN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAWKINS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAYWOOD COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HENDERSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HENRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HICKMAN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HOUSTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HUMPHREYS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
JACKSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (CONT'D)

JEFFERSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
JOHNSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
KNOX COUNTY
Decision #TN76-1081 (B)
41 FR 33178 - 8/6/76
Mod. #1 - 41 FR 44607 - 10/8/76
Mod. #2 - 41 FR 47718 - 10/29/76
Mod. #3 - 41 FR 51251 - 11/19/76
Decision #TN76-1055 (R)
41 FR 27648 - 7/2/76
(F) - See Anderson County
(Hw) - See Statewide
LAKE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Dyer County
LAUDERDALE COUNTY
(D) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
LAWRENCE COUNTY
(F) - See Anderson County
(Hw) -See Statewide
(R) - See Cheatham County
LEWIS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
LINCOLN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
LOUDON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MC MINN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MC NAIRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MACON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MADISON COUNTY
Decision #TN75-1051 (B)
40 FR 21666 - 5/16/75
Mod. #1 - 40 FR 57075 - 12/5/75
(F) - See Anderson County
(Hw) - See Statewide
MARION COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (Cont'd)

MARSHALL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
MAURY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
MEIGS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MONROE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MONTGOMERY COUNTY
(F,Hw) - See Statewide
MOORE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MORGAN COUNTY
(F) -See Anderson County
(Hw) - See Statewide
OBION COUNTY
(R) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
OVERTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PERRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PICKETT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
POLK COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PUTNAM COUNTY
(F) - See Anderson County
(Hw) - See Statewide
RHEA COUNTY
(Hw) - See Statewide
(F) - See Anderson County
ROANE COUNTY
(B) - See Anderson Co. (Oak Ridge Energy Research Development Administration Only)
(F) - See Anderson County
(Hw) - See Statewide
ROBERTSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County

TENNESSEE (Cont'd)

RUTHERFORD COUNTY
Decision #TN76-1056 (B)
41 FR 20147 - 5/14/76
Mod. #1 - 41 FR 53236 - 12/3/76
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
SCOTT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SEQUATCHIE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SEVIER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SHELBY COUNTY
Decision #TN76-1116 (B,H,W&S, & Utility)
41 FR 44658 - 10/8/76
Decision #TN76-1057 (R)
41 FR 20148 - 5/14/76
(D) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
SMITH COUNTY
(F) - See Anderson County
(Hw) - See Statewide
STEWART COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SULLIVAN COUNTY
Decision #TN76-1061 (B)
41 FR 20148 - 5/14/76
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Carter County
SUMNER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
TIPTON COUNTY
(D) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
TROUSDALE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County

TENNESSEE (Cont'd.

UNICOI COUNTY
(F) - See Anderson County
(Hw) - See Statewide
UNION COUNTY
(F) - See Anderson County
(Hw) - See Statewide
VAN BUREN COUNTY
(F) - See Anderson County
WARREN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
WASHINGTON COUNTY
Decision #TN76-1045 (B)
41 FR 14306 - 4/2/76
Mod. #1 - 41 FR 28468 - 7/9/76
(F) - See Anderson County
(Hw) - See Statewide
WAYNE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
WEAKLEY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Dyer County
WHITE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
WILLIAMSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County
WILSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Cheatham County

TEXAS

STATEWIDE (Excluding Dallas-Fort Worth Regional Airport)
Decision #TX76-4153 (H(Excluding tunnels and dams,) Hw Incidental shore work, and paving and uutilities incidental to general building construction)
41 FR 43635 - 10/1/76
ANDERSON COUNTY
Decision #TX76-4154 (R)
41 FR 43643 - 10/1/76
(H,Hw) - See Statewide
ANDREWS COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd.)

ANGELINA COUNTY
(H,Hw) - See Statewide
ARANSAS COUNTY
(H,Hw) - See Statewide
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
ARCHER COUNTY
(H,Hw) - See Statewide
ARMSTRONG COUNTY
Decision #TX76-4168 (B)
41 FR 44671 - 10/8/76
Mod. #1 - 41 FR 46820 - 10/22/76
Mod. #2 - 41 FR 53237 - 12/3/76
Decision #TX76-4155 (R)
41 FR 43645 - 10/1/76
Mod. #1 - 41 FR 45799 - 10/15/76
Mod. #2 - 41 FR 46820 - 10/22/76
Mod. #3 - 41 FR 53236 - 12/3/76
(H,Hw) - See Statewide
ATASCOSA COUNTY
(H,Hw) - See Statewide
AUSTIN COUNTY
(H,Hw) - See Statewide
BAILEY COUNTY
(H,Hw) - See Statewide
Decision #TX76-4029 (R)
41 FR 7006 - 2/13/76
BANDERA COUNTY
(H,Hw) - See Statewide
BASTROP COUNTY
Decision #AR-1 (R)
39 FR 24809 - 7/5/74
(H,Hw) - See Statewide
BAYLOR COUNTY
(H,Hw) - See Statewide
BEE COUNTY
Decision #TX76-4125 (B)
41 FR 30563 - 7/23/76
Mod. #1 - 41 FR 35330 - 8/20/76
Mod. #2 - 41 FR 43568 - 10/1/76
Mod. #3 - 41 FR 45798 - 10/15/76
Mod. #4 - 41 FR 51252 - 11/19/76
Decision #TX76-4030 (R)
41 FR 7008 - 2/13/76
(H,Hw) - See Statewide
BELL COUNTY
(H,Hw) - See Statewide
Decision #TX76-4157 (B)
41 FR 43649 - 10/1/76
Mod. #1 - 41 FR 45799 - 10/15/76
Mod. #2 - 41 FR 46820 - 10/22/76
Mod. #3 - 41 FR 51252 - 11/19/76

TEXAS (Cont'd)

BEXAR COUNTY
Decision #TX76-4080 (R)
41 FR 19037 - 5/7/76
(H,Hw) - See Statewide
Decision #TX76-4140 (B)
41 FR 33184 - 8/6/76
Mod. #1 - 41 FR 44607 - 10/8/76
Mod. #2 - 41 FR 45798 - 10/15/76
Mod. #3 - 41 FR 50125 - 11/12/76
BLANCO COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
BORDEN COUNTY
(H,Hw) - See Statewide
BOSQUE COUNTY
Decision #TX76-4161 (R)
41 FR 46838 - 10/22/76
(B) - See Bell County
(H,Hw) - See Statewide
BOWIE COUNTY
Decision #TX76-4169 (B)
41 FR 44662 - 10/8/76
Mod. #1 - 41 FR 51252 - 11/19/76
(H,Hw) - See Statewide
BRAZORIA COUNTY
(H,Hw) - See Statewide
Decision #AR-11 (R)
39 FR 29910 - 8/16/74
(D) - See Aransas County
BRAZOS COUNTY
Decision #TX76-4170 (B)
41 FR 44674 - 10/8/76
(H,Hw) - See Statewide
BREWSTER COUNTY
(H,Hw) - See Statewide
BRISCOE COUNTY
(H,Hw) - See Statewide
BROOKS COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(H,Hw) - See Statewide
BURLESON COUNTY
(H,Hw) - See Statewide
BURNETT COUNTY
(H,Hw) - See Statewide
CALDWELL COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
CALHOUN COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
CALLAHAN COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

CAMERON COUNTY
Decision #TX76-4126 (B)
41 FR 30565 - 7/23/76
Mod. #1 - 41 FR 42058 - 9/24/76
Mod. #2 - 41 FR 46819 - 10/22/76
Decision #TX76-4162 (R)
41 FR 44669 - 10/8/76
Mod. #1 - 41 FR 46820 - 10/22/76
(H,Hw) - See Statewide
CAMP COUNTY
Decision #TX76-4156 (R)
41 FR 43647 - 10/1/76
(H,Hw) - See Statewide
CARSON COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
CASS COUNTY
(H,Hw) - See Statewide
CASTRO COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
CHAMBERS COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
CHEROKEE COUNTY
(R) - See Anderson County
(H,Hw) - See Statewide
CHILDRESS COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
CLAY COUNTY
(H,Hw) - See Statewide
COCHRAN COUNTY
(H,Hw) - See Statewide
(R) - See Bailey County
COKE COUNTY
(H,Hw) - See Statewide
COLEMAN COUNTY
(H,Hw) - See Statewide
COLLIN COUNTY
Decision #AQ-87 (R)
39 FR 10106 - 3/15/74
Decision #TX76-4183 (B-excluding Dallas-Fort Worth Regional Airport)
41 FR 50191 - 11/12/76
(H,Hw) - See Statewide
COLLINGSWORTH COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
COLORADO COUNTY
(H,Hw) - See Statewide
COMAL COUNTY
(H,Hw) - See Statewide
COMANCHE COUNTY
(H,Hw) - See Statewide
CONCHO COUNTY
(H,Hw) - See Statewide
COOKE COUNTY
(H,Hw) - See Statewide
CORYELL COUNTY
(B) - See Bell County
(H,Hw) - See Statewide

TEXAS (Cont'd)

COTTLE COUNTY
(H,Hw) - See Statewide
CRANE COUNTY
(H,Hw) - See Statewide
Decision #TX76-4038 (R)
41 FR 7009 - 2/13/76
CROCKETT COUNTY
(H,Hw) - See Statewide
CROSBY COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
CULBERSON COUNTY
(H,Hw) - See Statewide
DALLAM COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
DALLAS COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
DAWSON COUNTY
(H,Hw) - See Statewide
DEAF SMITH COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
DELTA COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
DENTON COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
DE WITT COUNTY
(H,Hw) - See Statewide
DICKENS COUNTY
(H,Hw) - See Statewide
DIMMIT COUNTY
Decision #TX76-4039 (B,R)
41 FR 7014 - 2/13/76
(H,Hw) - See Statewide
DONLEY COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
DUVAL COUNTY
(H,Hw) - See Statewide
EASTLAND COUNTY
(H,Hw) - See Statewide
ECTOR COUNTY
Decision #TX76-4118 (B)
41 FR 29605 - 7/16/76
Mod. #1 - 41 FR 33129 - 8/16/76
Mod. #2 - 41 FR 42058 - 9/24/76
(H,Hw) - See Statewide
(R) - See Crane County
EDWARDS COUNTY
(H,Hw) - See Statewide
ELLIS COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
EL PASO COUNTY
Decision #TX76-4087 (B)
41 FR 21151 - 5/21/76
Mod. #1 - 41 FR 22721 - 6/4/76
Mod. #2 - 41 FR 30504 - 7/23/76
Mod. #3 - 41 FR 46818 - 10/22/76
Mod. #4 - 41 FR 47718 - 10/29/76
Mod. #5 - 41 FR 48986 - 11/5/76
(H,Hw) - See Statewide

TEXAS (Cont'd.)

ERATH COUNTY
(H,Hw) - See Statewide
FALLS COUNTY
(B) - See Bell County
(H,Hw) - See Statewide
FANNIN COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
FAYETTE COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
FISHER COUNTY
(H,Hw) - See Statewide
FLOYD COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
FOARD COUNTY
(H,Hw) - See Statewide
FORT BEND COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
FRANKLIN COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
FREESTONE COUNTY
(R) - See Bosque County
(H,Hw) - See Statewide
FRIO COUNTY
(H,Hw) - See Statewide
GAINES COUNTY
(H,Hw) - See Statewide
GALVESTON COUNTY
(R) - See Brazoria County
(D) - See Aransas County
(H,Hw) - See Statewide
Decision #TX76-4151 (B)
41 FR 42149 - 9/24/76
Mod. #1 - 41 FR 44607 - 10/8/76
Mod. #2 - 41 FR 45793 - 10/15/76
Mod. #3 - 41 FR 46820 - 10/22/76
Mod. #4 - 41 FR 53236 - 12/3/76
GARZA COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
GILLESPIE COUNTY
(H,Hw) - See Statewide
GLASSCOCK COUNTY
(H,Hw) - See Statewide
GOLIAD COUNTY
(H,Hw) - See Statewide
GONZALES COUNTY
(H,Hw) - See Statewide
GRAY COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
GRAYSON COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
GREGG COUNTY
Decision #TX76-4115 (B)
41 FR 29652 - 7/16/76
Mod. #1 - 41 FR 33129 - 8/6/76
Mod. #2 - 41 FR 44607 - 10/8/76
Mod. #3 - 41 FR 46819 - 10/22/76
Decision #TX76-4163 (R)
41 FR 44676 - 10/8/76
(H,Hw) See Statewide

TEXAS (Cont'd)

GRIMES COUNTY
(H,Hw) - See Statewide
GUADALUPE COUNTY
(H,Hw) - See Statewide
HALE COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
HALL COUNTY
(H,Hw) - See Statewide
HAMILTON COUNTY
(H,Hw) - See Statewide
HANSFORD COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
HARDEMAN COUNTY
(H,Hw) - See Statewide
HARDIN COUNTY
(H,Hw) - See Statewide
HARRIS COUNTY
(B) - See Galveston County
(R) - See Brazoria County
(D) - See Aransas County
(H,Hw) - See Statewide
HARRISON COUNTY
Decision #TX76-4042 (B)
41 FR 7013 - 2/13/76
Mod. #1 - 41 FR 12853 - 3/26/76
Mod. #2 - 41 FR 17297 - 4/23/76
Mod. #3 - 41 FR 21037 - 5/21/76
Mod. #4 - 41 FR 46818 - 10/22/76
(H,Hw) - See Statewide
(R) - See Gregg County
HARTLEY COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
HASKELL COUNTY
(H,Hw) - See Statewide
HAYS COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
HEMPHILL COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
HENDERSON COUNTY
(R) - See Anderson County
(H,Hw) - See Statewide
HIDALGO COUNTY
(R,B) - See Cameron County
(H,Hw) - See Statewide
HILL COUNTY
(R) - See Bosque County
(B) - See Bell County
(H,Hw) - See Statewide
HOCKLEY COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
HOOD COUNTY
(B) - See Collin County
Decision #TX76-4043 (R)
41 FR 7011 - 2/13/76
(H,Hw) - See Statewide

TEXAS (Cont'd)

HOPKINS COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
HOUSTON COUNTY
(H,Hw) - See Statewide
HOWARD COUNTY
Decision #TX76-4164 (B,R)
41 FR 44665 - 10/8/76
(H,Hw) - See Statewide
HUDSPETH COUNTY
(H,Hw) - See Statewide
HUNT COUNTY
(R)(B) - See Collin County
(H,Hw) - See Statewide
HUTCHINSON COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
IRION COUNTY
(H,Hw) - See Statewide
JACK COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(D) - See Aransas County
(H,Hw) - See Statewide
JASPER COUNTY
(H,Hw) - See Statewide
JEFF DAVIS COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
Decision #TX76-4106 (B,R)
41 FR 27649 - 7/2/76
Mod. #1 - 41 FR 32107 - 7/30/76
Mod. #2 - 41 FR 33129 - 8/6/76
Mod. #3 - 41 FR 42058 - 9/24/76
Mod. #4 - 41 FR 46819 - 10/22/76
Mod. #5 - 41 FR 51252 - 11/19/76
(D) - See Aransas County
(Hw) - See Statewide
JIM HOGG COUNTY
(H,Hw) - See Statewide
(B,R) - See Dimmit County
JIM WELLS COUNTY
(H,Hw) - See Statewide
JOHNSON COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
JONES COUNTY
(H,Hw) - See Statewide
KARNES COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

KAUFMAN COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
KENDALL COUNTY
(H,Hw) - See Statewide
KENEDY COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
KENT COUNTY
(H,Hw) - See Statewide
KERR COUNTY
(H,Hw) - See Statewide
KIMBLE COUNTY
(H,Hw) - See Statewide
KING COUNTY
(H,Hw) - See Statewide
KINNEY COUNTY
(H,Hw) - See Statewide
KLEBERG COUNTY
(B) - See Bee County
(D) - See Aransas County
(H,Hw) - See Statewide
(R) - See Bee County
KNOX COUNTY
(H,Hw) - See Statewide
LAMAR COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
LAMB COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
LAMPASAS COUNTY
(H,Hw) - See Statewide
LA SALLE COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
LAVACA COUNTY
(H,Hw) - See Statewide
LEE COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County

TEXAS (Cont'd)

LEON COUNTY
(H,Hw) - See Statewide
LIBERTY COUNTY
(H,Hw) - See Statewide
LIMESTONE COUNTY
(B) - See Bosque County
(H,Hw) - See Statewide
LIPSCOMB COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
LIVE OAK COUNTY
(H,Hw) - See Statewide
LLANO COUNTY
(H,Hw) - See Statewide
LOVING COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
LUBBOCK COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
Decision #TX76-4110 (B)
41 FR 27652 - 7/2/76
Mod. #1 - 41 FR 30505 - 7/23/76
Mod. #2 - 41 FR 33129 - 8/6/76
Mod. #3 - 41 FR 47718 - 10/29/76
Mod. #4 - 41 FR 53236 - 12/3/76
LYNN COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
McCULLOCH COUNTY
(H,Hw) - See Statewide
McLENNAN COUNTY
(R) - See Bosque County
(B) - See Bell County
(H,Hw) - See Statewide
McMULLEN COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MARION COUNTY
(H,Hw) - See Statewide
MARTIN COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

MASON COUNTY
(H,Hw) - See Statewide
MATAGORDA COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
(D) - See Aransas County
MAVERICK COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
MEDINA COUNTY
(H,Hw) - See Statewide
MENARD COUNTY
(H,Hw) - See Statewide
MIDLAND COUNTY
(B) - See Ector County
(H,Hw) - See Statewide
(R) - See Crane County
MILAM COUNTY
(H,Hw) - See Statewide
MILLS COUNTY
(H,Hw) - See Statewide
MITCHELL COUNTY
(H,Hw) - See Statewide
MONTAGUE COUNTY
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
MOORE COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
MORRIS COUNTY
(H,Hw) - See Statewide
MOTLEY COUNTY
(H,Hw) - See Statewide
NACOGDOCHES COUNTY
(H,Hw) - See Statewide
NAVARRO COUNTY
(R) - See Bosque County
(H,Hw) - See Statewide

TEXAS (Cont'd)

NEWTON COUNTY
(H,Hw) - See Statewide
NOLAN COUNTY
(H,Hw) - See Statewide
NUECES COUNTY
(B) - See Bee County
(D) - See Aransas County
(H,Hw) - See Statewide
(R) - See Bee County
OCHILTREE COUNTY
(R) (B) - See Armstrong County
(H,Hw) - See Statewide
OLDHAM COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
ORANGE COUNTY
(R)(B) - See Jefferson County
(Hw) - See Statewide
(D) - See Aransas County
PALO PINTO COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
PANOLA COUNTY
(H,Hw) - See Statewide
PARKER COUNTY
(H,Hw) - See Statewide
(R) - See Hood County
PARMER COUNTY
(H,Hw) - See Statewide
PECOS COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
POLK COUNTY
(H,Hw) - See Statewide
POTTER COUNTY
(H,Hw) - See Statewide
(B) (R) - See Armstrong County
PRESIDIO COUNTY
(H,Hw) - See Statewide
RAINS COUNTY
(H,Hw) - See Statewide
RANDALL COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
REAGAN COUNTY
(H,Hw) - See Statewide
REAL COUNTY
(H,Hw) - See Statewide
RED RIVER COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

REEVES COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
REFUGIO COUNTY
(D) - See Aransas County
(H,Hw) - See Statewide
ROBERTS COUNTY
(H,Hw) - See Statewide
(B) (R) - See Armstrong County
ROBERTSON COUNTY
(H,Hw) - See Statewide
ROCKWALL COUNTY
(R)(B) - See Collin County
(H,Hw) - See Statewide
RUNNELS COUNTY
(H,Hw) - See Statewide
RUSK COUNTY
(R) - See Gregg County
(H,Hw) - See Statewide
SABINE COUNTY
(H,Hw) - See Statewide
SAN AUGUSTINE COUNTY
(H,Hw) - See Statewide
SAN JACINTO COUNTY
(H,Hw) - See Statewide
SAN PATRICIO COUNTY
(R) - See Bee County
(D) - See Aransas County
(H,Hw) - See Statewide
SAN SABA COUNTY
(H,Hw) - See Statewide
SCHLEICHER COUNTY
(H,Hw) - See Statewide
SCURRY COUNTY
(H,Hw) - See Statewide
SHACKELFORD COUNTY
(H,Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
SHERMAN COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
SMITH COUNTY
Decision #TX76-4165 (R)
41 FR 44678 - 10/8/76
Decision #TX76-4127 (B)
41 FR 30491 - 7/23/76
Mod. #1 - 41 FR 46819 - 10/22/76
(H,Hw) - See Statewide
SOMERVELL COUNTY
(H,Hw) - See Statewide
STARR COUNTY
(H,Hw) - See Statewide
(B)(R) - See Cameron County
STEPHENS COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

STERLING COUNTY
(H,Hw) - See Statewide
STONEWALL COUNTY
(H,Hw) - See Statewide
SUTTON COUNTY
(H,Hw) - See Statewide
SWISHER COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
TARRANT COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
Decision #AQ-117 (R)
39 FR 22400 - 6/21/74
TAYLOR COUNTY
Decision #TX76-4171 (B)
41 FR 44664 - 10/8/76
(H,Hw) - See Statewide
TERRELL COUNTY
(H,Hw) - See Statewide
TERRY COUNTY
(H,Hw) - See Statewide
(R) - See Bailey County
THROCKMORTON COUNTY
(H,Hw) - See Statewide
TITUS COUNTY
(R) - See Camp County
(H,Hw) - See Statewide
TOM GREEN COUNTY
Decision #TX76-4049 (B)
41 FR 7921 - 2/20/76
Mod. #1 - 41 FR 12854 - 3/26/76
Mod. #2 - 41 FR 30503 - 7/23/76
Mod. #3 - 41 FR 42058 - 9/24/76
(H,Hw) - See Statewide
TRAVIS COUNTY
Decision #TX76-4152 (B)
41 FR 42152 - 9/24/76
Mod. #1 - 41 FR 44608 - 10/8/76
Mod. #2 - 41 FR 45799 - 10/15/76
Mod. #3 - 41 FR 51252 - 11/19/76
(R) - See Bastrop County
(H,Hw) - See Statewide
TRINITY COUNTY
(H,Hw) - See Statewide
TYLER COUNTY
(H,Hw) - See Statewide
UPSHUR COUNTY
(R) - See Gregg County
(H,Hw) - See Statewide
UPTON COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
UVALDE COUNTY
(H,Hw) - See Statewide
VAL VERDE COUNTY
(H,Hw) - See Statewide
VAN ZANDT COUNTY
(R) - See Smith County
(H,Hw) - See Statewide
VICTORIA COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County

TEXAS (Cont'd.)

WALKER COUNTY
(H,Hw) - See Statewide
(R) - See Brazoria County
WALLER COUNTY
(H,Hw) - See Statewide
WARD COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
WASHINGTON COUNTY
(H,Hw) - See Statewide
WEBB COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
WHARTON COUNTY
(H,Hw) - See Statewide
WHEELER COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
WICHITA COUNTY
Decision #TX76-4166 (R)
41 FR 44667 - 10/8/76
Decision #TX76-4128 (B)
41 FR 30566 - 7/23/76
Mod. #1 - 41 FR 33129 - 8/5/76
Mod. #2 - 41 FR 35330 - 8/20/76
Mod. #3 - 41 FR 44607 - 10/8/76
Mod. #4 - 41 FR 45798 - 10/15/76
(H,Hw) - See Statewide
WILBARGER COUNTY
(H,Hw) - See Statewide
WILLACY COUNTY
(R)(B) - See Cameron County
(H,Hw) - See Statewide
(D) - See Aransas County
WILLIAMSON COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
WILSON COUNTY
(H,Hw) - See Statewide
WINKLER COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
WISE COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
WOOD COUNTY
(R) - See Smith County
(H,Hw) - See Statewide
YOAKUM COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
YOUNG COUNTY
(H,Hw) - See Statewide
ZAPATA COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
ZAVALA COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide

UTAH

STATEWIDE
Decision #UT76-5097 (B,H,Hw)
41 FR 49003 - 11/5/76
Mod. #1 - 41 FR 52187 - 11/26/76
BEAVER COUNTY
(B,H,Hw) - See Statewide
BOX ELDER COUNTY
(B,H,Hw) - See Statewide
CACHE COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
DAGGETT COUNTY
(B,H,Hw) - See Statewide
DAVIS COUNTY
(B,H,Hw) - See Statewide
DUCHESNE COUNTY
(B,H,Hw) - See Statewide
EMERY COUNTY
(B,H,Hw) - See Statewide
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GRAND COUNTY
(B,H,Hw) - See Statewide
IRON COUNTY
(B,H,Hw) - See Statewide
JUAB COUNTY
(B,H,Hw) - See Statewide
KANE COUNTY
(B,H,Hw) - See Statewide
MILLARD COUNTY
(B,H,Hw) - See Statewide
MORGAN COUNTY
(B,H,Hw) - See Statewide
PIUTE COUNTY
(B,H,Hw) - See Statewide
RICH COUNTY
(B,H,Hw) - See Statewide
SALT LAKE COUNTY
(B,H,Hw) - See Statewide
SAN JUAN COUNTY
(B,H,Hw) - See Statewide
SANPETE COUNTY
(B,H,Hw) - See Statewide
SEVIER COUNTY
(B,H,Hw) - See Statewide
SUMMIT COUNTY
(B,H,Hw) - See Statewide
TOOELE COUNTY
(B,H,Hw) - See Statewide
UINTAH COUNTY
(B,H,Hw) - See Statewide
UTAH COUNTY
(B,H,Hw) - See Statewide
WASATCH COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

UTAH (Cont'd.)

WAYNE COUNTY
(B,H,Hw) - See Statewide
WEBER COUNTY
(B,H,Hw) - See Statewide

VERMONT

Statewide (Except Rutland County)
Decision #VT76-2040 (Hw)
41 FR 12873 - 3/26/76
Mod. #1 - 41 FR 16318 - 4/16/76
ADDISON COUNTY
(Hw) - See Statewide
BENNINGTON COUNTY
(Hw) - See Statewide
CALEDONIA COUNTY
(Hw) - See Statewide
CHITTENDEN COUNTY
(Hw) - See Statewide
ESSEX COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
GRAND ISLE COUNTY
(Hw) - See Statewide
LAMOILLE COUNTY
(Hw) - See Statewide
ORANGE COUNTY
(Hw) - See Statewide
ORLEANS COUNTY
(Hw) - See Statewide
RUTLAND COUNTY
None
WASHINGTON COUNTY
(Hw) - See Statewide
WINDHAM COUNTY
(Hw) - See Statewide
WINDSOR COUNTY
(Hw) - See Statewide

VIRGIN ISLANDS

ISLAND WIDE
Decision #VI76-3166 (B)
41 FR 19003 - 5/7/76
Decision #VI76-3167 (H,Hw)
41 FR 19003 - 5/7/76

VIRGINIA

ACCOMACK COUNTY
Decision #AP-805 (Hw)
38 FR 11279 - 5/4/73
Mod. #1 - 38 FR 13127 - 5/18/73
Mod. #2 - 40 FR 15284 - 4/4/75
Mod. #3 - 40 FR 23631 - 5/30/75
Mod. #4 - 41 FR 50122 - 11/12/76
Decision #GA76-5025 (D)
41 FR 12857 - 3/26/76
ALBERMARLE COUNTY
Decision #VA75-3094 ((B)
40 FR 43415 - 9/19/75
Mod. #1 - 40 FR 48847 - 10/17/75
Mod. #2 - 41 FR 11735 - 3/19/76
ALEXANDRIA CITY
Decision #MD76-3225 (B)
41 FR 32141 - 7/30/76
Mod. #1 - 41 FR 34487 - 8/13/76
Mod. #2 - 41 FR 38709 - 9/10/76
Mod. #3 - 41 FR 42059 - 10/1/76
Mod. #4 - 41 FR 48987 - 11/5/76
ALLEGHANY COUNTY
None
AMELIA COUNTY
Decision #AR-2032 (Hw)
39 FR 31871 - 8/30/74
AMHERST COUNTY
Decision #AQ-2032 (Hw)
38 FR 33259 - 11/30/73
APPOMATTOX COUNTY
(Hw) - See Amherst County
ARLINGTON COUNTY
(B) - See Alexandria City
(D) - See Accomack County
AUGUSTA COUNTY
None
BATH COUNTY
None
BEDFORD CITY
(Hw) - See Bedford County
BEDFORD COUNTY
Decision #AQ-2021 (Hw)
38 FR 27744 - 10/5/73
Mod. #1 - 41 FR 50122 - 11/12/76
BLAND COUNTY
Decision #VA76-3253 (Hw)
41 FR 42154 - 9/24/76

VIRGINIA (Cont'd)

BOTETOURT COUNTY
(Hw) - See Bedford County
BRISTOL CITY
(Hw) - See Bland County
BRUNSWICK COUNTY
(Hw) - See Amelia County
BUCHANAN COUNTY
(Hw) - See Bland County
BUCKINGHAM COUNTY
(Hw) - See Amherst County
BUENA VISTA CITY
(Hw) - See Allegheny County
CAMPBELL COUNTY
Decision #VA75-3095 (B)
40 FR 43416 - 9/19/75
Mod. #1 - 41 FR 11735 - 3/19/76
Mod. #2 - 41 FR 50123 - 11/12/76
(Hw) - See Amherst County
CAROLINE COUNTY
Decision #AQ-2031 (Hw)
38 FR 33258 - 11/30/73
CARROLL COUNTY
(Hw) - See Bedford County
CHARLES CITY COUNTY
(Hw) - See Amelia County
CHARLOTTE COUNTY
(Hw) - See Amherst County
CHARLOTTSVILLE CITY
(Hw) - See Albermarle County
CHESAPEAKE CITY
Decision #VA76-3214 (B)
41 FR 32189 - 7/30/76
Mod. #1 - 41 FR 40373 - 9/17/76
Mod. #2 - 41 FR 50122 - 11/12/76
Mod. #2 - 41 FR 43569 - 10/1/76
Decision #AP-494 (Hw)
38 FR 7693 - 3/23/73
Mod. #1 - 40 FR 44446 - 9/26/75
(D) - See Accomack County
CHESTERFIELD COUNTY
(Hw) - See Amelia County
CLARKE COUNTY
None
CLIFTON FORGE CITY
(Hw) - See Alleghany County
COLONIAL HEIGHTS CITY
(Hw) - See Amelia County
COVINGTON CITY
(Hw) - See Alleghany County
CRAIG COUNTY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

CULPEPER COUNTY
None
CUMBERLAND COUNTY
(Hw) - See Amherst County
DANVILLE CITY
(Hw) - See Amherst County
DICKENSON COUNTY
(Hw) - See Bland County
DINWIDDIE COUNTY
(Hw) - See Amelia County
EMPORIA CITY
(Hw) - See Accomack County
ESSEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
FAIRFAX COUNTY
(B) - See Alexandria City
(D) - See Accomack County
FAIRFAX CITY
(B) - See Alexandria City
FALLS CHURCH CITY
(B) - See Alexandria City
FAUQUIER COUNTY
None
FLOYD COUNTY
(Hw) - See Bedford County
FLUVANNA COUNTY
None
FORT MONROE CITY
(Hw) - See Chesapeake City
(B,H,W&S) - See York County
FRANKLIN CITY
(Hw) - See Accomack County
FRANKLIN COUNTY
(Hw) - See Bedford County
FREDERICK COUNTY
(R) - See Clarke County

VIRGINIA (Cont'd)

FREDERICKSBURG CITY
(Hw) - See Caroline County
GALAX CITY
(Hw) - See Bedford County
GILES COUNTY
(Hw) - See Bedford County
GLOUCESTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
GOOCHLAND COUNTY
(Hw) - See Amelia County
GRAYSON COUNTY
(Hw) - See Bland County
GREENE COUNTY
None
GREENSVILLE COUNTY
(Hw) - See Accomack County
HALIFAX COUNTY
(Hw) - See Amherst County
HAMPTON CITY
Decision #VA76-3254 (R)
41 FR 44680 - 10/8/76
(B,H,W&S) - See York County
(Hw) - See Chesapeake County
(D) - See Accomack County
HANOVER COUNTY
(Hw) - See Amelia County
HARRISONBURG CITY
(Hw) - See Allegheny County
HENRICO COUNTY
Decision #VA76-3213 (B)
41 FR 32187 - 7/30/76
Mod. #1 - 41 FR 40373 - 9/17/76
Mod. #2 - 41 FR 43569 - 10/1/76
Mod. #3 - 41 FR 50123 - 11/12/76
(Hw) - See Amelia County

VIRGINIA (Cont'd.)

HENRY COUNTY
(Hw) - See Bedford County
HIGHLAND COUNTY
None
HOPEWELL CITY
(Hw) - See Amelia County
ISLE OF WIGHT COUNTY
(D,Hw) - See Accomack County
JAMES CITY COUNTY
(D,Hw) - See Accomack County
KING AND QUEEN COUNTY
(Hw) - See Caroline County
KING GEORGE COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
KING WILLIAM COUNTY
(Hw) - See Caroline County
LANCASTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
LEE COUNTY
(Hw) - See Bland County
LOUDOUN COUNTY
None
LOUISA COUNTY
None
LUNENBURG COUNTY
(Hw) - See Amelia County
LYNCHBURG CITY
(Hw) - See Amherst County
MADISON COUNTY
None
MARTINSVILLE CITY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

MATHEWS COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MECKLENBURG COUNTY
(Hw) - See Amelia County
MIDDLESEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MONTGOMERY COUNTY
(Hw) - See Bedford County
NANSEMOND COUNTY
(D,Hw) - See Accomack County
NELSON COUNTY
(Hw) - See Amherst County
NEW KENT COUNTY
(Hw) - See Amelia County
NEWPORT NEWS CITY
(B,H,W&S) - See York County
(Hw) - See Chesapeake City
(D) - See Accomack County
(R) - See Hampton City
NORFOLK CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
NORTHAMPTON COUNTY
(D,Hw) - See Accomack County
NORTON CITY
(Hw) - See Bland County
NORTHUMBERLAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
NOTTOWAY COUNTY
(Hw) - See Amelia County
ORANGE COUNTY
None

VIRGINIA (Cont'd)

PAGE COUNTY
None
PATRICK COUNTY
(Hw) - See Bedford County
PETERSBURG CITY
(Hw) - See Amelia County
PITTSYLVANIA COUNTY
(Hw) - See Amherst County
PORTSMOUTH CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
POWHATAN COUNTY
(Hw) - See Amelia County
PRINCE EDWARD COUNTY
(Hw) - See Amherst County
PRINCE GEORGE COUNTY
(Hw) - See Amelia County
PRINCE WILLIAM COUNTY
(D) - See Accomack County
PULASKI COUNTY
(Hw) - See Bedford County
RADFORD CITY
Decision #VA76-3220 (B)
41 FR 33186 - 8/6/76
(Hw) - See Bedford County
RAPPAHANNOCK COUNTY
None
RICHMOND CITY
(B) - See Henrico County
(Hw) - See Amelia County
RICHMOND COUNTY
(Hw) - See Caroline County
ROANOKE CITY
(Hw) - See Bedford County
ROANOKE COUNTY
(Hw) - See Bedford County
ROCKBRIDGE COUNTY
None
ROCKINGHAM COUNTY
None
RUSSELL COUNTY
(Hw) - See Bland County
SALEM CITY
(Hw) - See Bedford County
SCOTT COUNTY
(Hw) - See Bland County
SHENANDOAH COUNTY
(R) - See Clarke County
SMYTH COUNTY
(Hw) - See Bland County
SOUTHAMPTON COUNTY
(Hw) - See Accomack County

VIRGINIA (Cont'd.)

SOUTH BOSTON CITY
(Hw) - See Amherst County
SPOTSYLVANIA COUNTY
(Hw) - See Caroline County
STAUNTON CITY
(Hw) - See Alleghany County
STAFFORD COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
SUFFOLK CITY
(Hw) - See Accomack County
SURRY COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
SUSSEX COUNTY
(Hw) - See Accomack County
TAZEWELL COUNTY
(Hw) - See Bland County
VIRGINIA BEACH CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
WARREN COUNTY
None
WASHINGTON COUNTY
(Hw) - See Bland County
WAYNESBORO CITY
(Hw) - See Allegheny County
WESTMORELAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
WILLIAMSBURG CITY
(Hw) - See Accomack County
WINCHESTER CITY
(Hw) - See Alleghany County
WISE COUNTY
(Hw) - See Bland County
WYTHE COUNTY
(Hw) - See Bland County
YORK COUNTY
Decision #VA76-3215 (B,H,W&S)
41 FR 32191 - 7/30/76
Mod. #1 - 41 FR 40373 - 9/17/76
Mod. #2 - 41 FR 43569 - 10/1/76
Mod. #3 - 41 FR 50124 - 11/12/76
(D,Hw) - See Accomack County

WASHINGTON

STATEWIDE
Decision #WA76-5079 (B,H,Hw,D)
41 FR 35457 - 8/20/76
Mod. #1 - 41 FR 46821 - 10/22/76
Mod. #2 - 41 FR 48987 - 11/5/76
ADAMS COUNTY
(B,H,Hw,D) - See Statewide
ASOTIN COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CHELAN COUNTY
(B,H,Hw,D) - See Statewide
CLALLAM COUNTY
Decision #WA76-5040 (R)
41 FR 18275 - 4/30/76
(B,H,Hw,D) - See Statewide
CLARK COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COWLITZ COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
FERRY COUNTY
(B,H,Hw, D) - See Statewide
FRANKLIN COUNTY
(B,H,Hw,D) - See Statewide
GARFIELD COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
GRAYS HARBOR COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
ISLAND COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KING COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
KITSAP COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KITTITAS COUNTY
(B,H,Hw,D) - See Statewide
KLICKITAT COUNTY
(B,H,Hw,D) - See Statewide

WASHINGTON (Cont'd)

LEWIS COUNTY
(B,H,Hw,D) - See Statewide
LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
MASON COUNTY
(B,H,Hw,D) - See Statewide
(R)- See Clallam County
OKANOGAN COUNTY
(B,H,Hw,D) - See Statewide
PACIFIC COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
PEND OREILLE COUNTY
(B,H,Hw,D) - See Statewide
PIERCE COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
SAN JUAN COUNTY
(B,H,Hw,D) - See Statewide
SKAGIT COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
SKAMANIA COUNTY
(B,H,Hw,D) - See Statewide
SNOHOMISH COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
SPOKANE COUNTY
(B,H,Hw,D) - See Statewide
STEVENS COUNTY
(B,H,Hw,D) - See Statewide
THURSTON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
WAHKIAKUM COUNTY
(B,H,Hw,D) - See Statewide
WALLA WALLA COUNTY
(B,H,Hw,D) - See Statewide
WHATCOM COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
WHITMAN COUNTY
(B,H,Hw,D) - See Statewide
YAKIMA COUNTY
Decision #AQ-1109 (R)
39 FR 18416 - 5/24/74

(B,H,Hw,D) - See Statewide

WASHINGTON, D. C.

WASHINGTON, D. C.
Decision #DC76-3284 (B,Hw, W&S)
41 FR 51368 - 11/19/76
Decision #GA76-5025 (D)
41 FR 12857 - 3/26/76
Decision #DC76-3171 (R)
41 FR 21027 - 5/21/76

WEST VIRGINIA

STATEWIDE
Decision #WV75-3105 (H,Hw)
40 FR 48884 - 10/17/75
Mod. #1 - 40 FR 53178 - 11/14/75
Mod. #2 - 41 FR 8631 - 2/27/76
Mod. #3 - 41 FR 11736 - 3/19/76
Mod. #4 - 41 FR 21041 - 5/21/76
BARBOUR COUNTY
Decision #WV75-3106 (B)
40 FR 58060 - 12/12/75
Mod. #1 - 41 FR 8632 - 2/27/76
Mod. #2 - 41 FR 11737 - 3/19/76
Mod. #3 - 41 FR 21041 - 5/21/76
Mod. #4 - 41 FR 24842 - 6/18/76
(H,Hw) - See Statewide
BERKELEY COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
BRAXTON COUNTY
Decision #WV75-3107 (B)
40 FR 57061 - 12/5/75
Mod. #1 - 41 FR 8634 - 2/27/76
Mod. #2 - 41 FR 11737 - 3/19/76
Mod. #3 - 41 FR 21042 - 5/21/76
(H,Hw) - See Statewide
BROOKE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
CABELL COUNTY
(B) - See Barbour County
Decision #IL76-5026 (D)
41 FR 12858 - 3/26/76
(H,Hw) - See Statewide
CALHOUN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
CLAY COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
DODDRIDGE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
FAYETTE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
GILMER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
GRANT COUNTY
(B) - See Braxton County
(H,Hw) - See Statewide
GREENBRIER COUNTY
(B) - See Braxton County
(H,Hw) - See Statewide
HAMPSHIRE COUNTY
(B) - See Braxton County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd)

HANCOCK COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HARDY COUNTY
(B) - See Braxton County
(H,Hw) - See Statewide
HARRISON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
JACKSON COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
(B) - See Barbour County
JEFFERSON COUNTY
(H,Hw) - See Statewide
KANAWHA COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
Decision #AR-2058 (R)
39 FR 35940 - 10/4/74
Mod. #1 - 39 FR 44913 - 12/27/74
(H,Hw) - See Statewide
LEWIS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
LINCOLN COUNTY
(B) - See Braxton County
(H,Hw) - See Statewide
LOGAN COUNTY
(B) - See Braxton County
(H,Hw) - See Statewide
MC DOWELL COUNTY
(B) - See Braxton County
(H,Hw) - See Statewide
MARION COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MARSHALL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MASON COUNTY
(B) - See Barbour County
(D) - See Cabell County
(H,Hw) - See Statewide
MERCER COUNTY
(B) - See Braxton County
(H,Hw) - See Statewide
MINERAL COUNTY
(B) - See Braxton County
(H,Hw) - See Statewide
MINGO COUNTY
(B) - See Braxton County
(H,Hw) - See Statewide
MONONGALIA COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WISCONSIN

STATEWIDE
Decision #WI76-2119 (Hw)
41 FR 44681 - 10/8/76
Decision #WI76-2045 (H, Sewer, Tunnel, & Water)
41 FR 16425 - 4/16/76
Mod. #1 - 41 FR 52188 - 11/26/76
Mod. #2 - 41 FR 53237 - 12/3/76
ADAMS COUNTY
(H,Hw, W&S) - See Statewide
ASHLAND COUNTY
Decision #IL76-5038 (D)
41 FR 16373 - 4/16/76
Mod. #1 - 41 FR 19007 - 5/7/76
(H,Hw, W&S) - See Statewide
Decision #AR-3151 (B,R)
39 FR 36706 - 10/11/74
Mod. #1 - 40 FR 21657 - 5/16/75
BARRON COUNTY
(B) - See Polk County
(H,Hw, W&S) - See Statewide
BAYFIELD COUNTY
(B,R,D) - See Ashland County
(H,Hw, W&S) - See Statewide
BROWN COUNTY
Decision #AR-3153 (B)
39 FR 36825 - 10/11/74
Mod. #1 - 40 FR 21658 - 5/16/75
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
BUFFALO COUNTY
(H,Hw, W&S) - See Statewide
BURNETT COUNTY
(H,Hw, W&S) - See Statewide
CALUMET COUNTY
(H,Hw, W&S) - See Statewide
CHIPPEWA COUNTY
(H,Hw, W&S) - See Statewide
(B,R) - See Eau Clair County
CLARK COUNTY
(H,Hw) - See Statewide
COLUMBIA COUNTY
(H,Hw, W&S) - See Statewide
CRAWFORD COUNTY
(H,Hw, W&S) - See Statewide
DANE COUNTY
(H,Hw, W&S) - See Statewide
Decision #AR-3155 (B,R)
39 FR 36829 - 10/11/74
Mod. #1 - 40 FR 18284 - 4/25/75
Mod. #2 - 41 FR 8631 - 2/27/76
DODGE COUNTY
(H,Hw, W&S) - See Statewide

WISCONSIN (Con't.d)

DOOR COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
DOUGLAS COUNTY
(B,D,R) - See Ashland County
DUNN COUNTY
(B) - See Polk County
(H,Hw, W&S) - See Statewide
EAU CLAIR COUNTY
Decision #AR-3154 (B,R)
39 FR 36827 - 10/11/74
Mod. #1 - 40 FR 18284 - 4/25/75
(H,Hw, W&S) - See Statewide
FLORENCE COUNTY
(H,Hw, W&S) - See Statewide
FOND DU LAC COUNTY
(H,Hw, W&S) - See Statewide
FOREST COUNTY
(H,Hw, W&S) - See Statewide
GRANT COUNTY
(H,Hw, W&S) - See Statewide
GREEN COUNTY
(B) - See Rock County
(H,Hw, W&S) - See Statewide
GREEN LAKE COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
IOWA COUNTY
(B) - See Dane County
(H,Hw, W&S) - See Statewide
IRON COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
JACKSON COUNTY
(H,Hw, W&S) - See Statewide
JEFFERSON COUNTY
(H,Hw, W&S) - See Statewide
JUNEAU COUNTY
(H,Hw, W&S) - See Statewide
Decision #WI76-2165 (B)
41 FR 53261 - 12/3/76
KENOSHA COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
Decision #AR-3159 (B,R)
39 FR 36837 - 10/11/74
Mod. #1 - 39 FR 41662 - 1/21/74
KEWAUNEE COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
LA CROSSE COUNTY
Decision #WI76-2155 (B,R)
41 FR 52280 - 11/26/76
(H,Hw, W&S) - See Statewide

WISCONSIN (Cont'd.)

LA FAYETTE COUNTY
(H,Hw, W&S) - See Statewide
LANGLADE COUNTY
(B) - See Marathon County
(H,Hw, W&S) - See Statewide
LINCOLN COUNTY
(B) - See Marathon County
(H,Hw, W&S) - See Statewide
MANITOWOC COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
MARATHON COUNTY
Decision #AR-3161 (B)
39 FR 36940 - 10/11/74
Mod. #1 - 40 FR 18286 - 4/25/75
(H,Hw, W&S) - See Statewide
MARINETTE COUNTY
(D) - See Ashland County
MARQUETTE COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
MENOMINEE COUNTY
(H,Hw, W&S) - See Statewide
MILWAUKEE COUNTY
Decision #WI76-2116 (B,R)
41 FR 42155 - 9/24/76
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
MONROE COUNTY
(H,Hw, W&S) - See Statewide
OCONTO COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
ONEIDA COUNTY
(H,Hw, W&S) - See Statewide
OUTAGAMIE COUNTY
(H,Hw, W&S) - See Statewide
OZAUKEE COUNTY
(B,R) - See Milwaukee County
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
PEPIN COUNTY
(B,R) - See Eau Clair County
(H,Hw, W&S) - See Statewide
PIERCE COUNTY
(H,Hw, W&S) - See Statewide
POLK COUNTY
Decision #AR-3152 (B)
39 FR 36823 - 10/11/74
Mod. #1 - 40 FR 18284 - 4/25/75
(H,Hw, W&S) - See Statewide
PORTAGE COUNTY
(H,Hw, W&S) - See Statewide
PRICE COUNTY
(H,Hw, W&S) - See Statewide

WISCONSIN (Cont'd.

RACINE COUNTY
Decision #WI75-2064 (B,R)
40 FR 21691 - 5/16/75
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
RICHLAND COUNTY
(H,Hw, W&S) - See Statewide
ROCK COUNTY
Decision #AR-3156 (B)
39 FR 36831 - 10/11/74
Mod. #1 - 40 FR 21658 - 5/16/75
(H,Hw, W&S) - See Statewide
RUSK COUNTY
(H,Hw, W&S) - See Statewide
SAINT CROIX COUNTY
(B) - See Polk County
(H,Hw, W&S) - See Statewide
SAUK COUNTY
(B) - See Dane County
(H,Hw, W&S) - See Statewide
SAWYER COUNTY
(H,Hw, W&S) - See Statewide
SHAWANO COUNTY
(H,Hw, W&S) - See Statewide
SHEBOYGAN COUNTY
(D) - See Ashland County
TAYLOR COUNTY
(H,Hw, W&S) - See Statewide
TREMPEALEAU COUNTY
(H,Hw, W&S) - See Statewide
VERNON COUNTY
(H,Hw, W&S) - See Statewide
VILAS COUNTY
(H,Hw, W&S) - See Statewide
WALWORTH COUNTY
(H,Hw, W&S) - See Statewide
WASHBURN COUNTY
(H,Hw, W&S) - See Statewide
WASHINGTON COUNTY
(B,R) - See Milwaukee County
(H,Hw, W&S) - See Statewide
WAUKESHA COUNTY
(B,R) - See Milwaukee County
(H,Hw, W&S) - See Statewide
WAUPACA COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
WASHARA COUNTY
(B) - See Winnebago County
(H,Hw, W&S) -See Statewide
WINNEBAGO COUNTY
Decision #AR-3157 (B)
39 FR 36833 - 10/11/74
Mod. #1 - 40 FR 20562 - 5/9/75
(H,Hw, W&S) - See Statewide
WOOD COUNTY
(H,Hw, W&S) - See Statewide

WYOMING

STATEWIDE
Decision #WY76-5029 (Hw)
41 FR 14307 - 4/2/76
ALBANY COUNTY
(Hw) - See Statewide
BIG HORN COUNTY
(Hw) - See Statewide
CAMPBELL COUNTY
(Hw) - See Statewide
CARBON COUNTY
(Hw) - See Statewide
CONVERSE COUNTY
Decision #WY76-5070 (B,H)
41 FR 33187 - 8/6/76
Mod. #1 - 41 FR 53238 - 12/3/76
(Hw) - See Statewide
CROOK COUNTY
(Hw) - See Statewide
FREMONT COUNTY
(Hw) - See Statewide
GOSHEN COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
HOT SPRINGS COUNTY
(Hw) - See Statewide
JOHNSON COUNTY
(Hw) - See Statewide
LARAMIE COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
LINCOLN COUNTY
(Hw) - See Statewide
NATRONA COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
NIOBRARA COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
PARK COUNTY
(Hw) - See Statewide
PLATTE COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SUBLETTE COUNTY
(H(Hw) - See Statewide
SWEETWATER COUNTY
(Hw) - See Statewide

WYOMING (Cont'd.

TETON COUNTY
(Hw) - See Statewide
UINTA COUNTY
(Hw) - See Statewide
WASHAKIE COUNTY
(Hw) - See Statewide
WESTON COUNTY
(Hw) - See Statewide
YELLOWSTONE NATIONAL PARK
(Hw) - See Statewide

[FR Doc.77-359 Filed 1-6-77;8:45 am]

Vol.42—No.5
1-7-77

BOOK 2:
PAGES
1741-2049

federal register

BOOK 2 OF 2 BOOKS

FRIDAY, JANUARY 7, 1977

PART VI



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

MACHINERY AND MACHINE GUARDING

Request for Information on Technical Issues and Notice of Public Meetings

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket O]

MACHINERY AND MACHINE GUARDING

Request for Information and Notice of Public Meeetings

• *The purpose* of this notice is to solicit comments and information on approaches to revising 29 CFR Part 1910, Subpart O, "Machinery and Machine Guarding," of the OSHA General Industry Standards. This notice does not reflect a decision by OSHA to revise Subpart O in any particular manner. It is a preliminary inquiry as to the merits of various approaches to revising Subpart O. OSHA believes that this public notice and solicitation of comments is the best way to generate informed and useful comments.•

The Need for Revision

Under section 6(a) of the Occupational Safety and Health Act of 1970, OSHA was required to adopt existing national consensus standards and established Federal standards unless it determined that a particular standard would not improve safety and health in the workplace. Five months after the Act was passed, OSHA adopted a large group of the standards as mandatory standards under the Act. Because OSHA recognizes the need for obtaining data for use in revising these standards, on April 23, 1976, it published a request for information in the Federal Register calling for comment on approximately fifteen percent of its safety standards (41 FR 17100).

OSHA specifically requested comments on six general issues which had been suggested as problem areas or deficiencies of the current safety standards. The six areas of concern were:

1. How to simplify and clarify the standards.
2. Which standards are not relevant to employee safety.
3. Whether there are gaps in the coverage of the standards which should be closed.
4. Whether performance criteria are more useful than design specifications.
5. Whether standards developed by consensus organizations should be incorporated by reference in the OSHA standards.
6. What methods of achieving safety should be developed, in the face of rapid advances in technology and the creation of new hazards.

This notice addresses issues particular to Subpart O of the safety standards. Subpart O was derived almost entirely from seven American National Standards Institute ("ANSI") machinery standards. Section 1910.212, "General requirements for all machines" was based on the existing Federal standards issued under the Walsh-Healey Act. These ANSI standards cover only seven machinery groups so that many machines have been regulated solely by the provisions of § 1910.212 requiring generally that machines shall be guarded to protect the operator and other employees in the machine area from hazards. For example, printing presses, rolling mills, and saws cutting either metal or plastic are covered only by § 1910.212. Moreover, certain other machinery, such as cranes and air compressors, are covered by other subparts.

The President's Task Force on Revision of the OSHA Safety Regulations

On May 7, 1976, the President established a series of task forces to work in close conjunction with selected agencies of the Executive Branch in improving and simplifying their regulations. OSHA was one of the agencies. The mandate of the OSHA Task Force included preparation of the materials for eliciting public comment on the standards of Subpart O (Machinery and Machine Guarding) and development of a suggested new approach for OSHA safety standards using Subpart O as a prototype.

The Co-chairmen of the Task Force were Philip J. Harter, Senior Staff Attorney of the Administrative Conference of the United States and Joseph L. Kirk, Director of the Policy Analysis Staff of the Occupational Safety and Health Administration. Anson Keller, Special Assistant to the Assistant Secretary for OSHA, was the operating director. The Task Force was comprised of government employees, selected by the Co-chairmen, who were loaned by their employing agencies to the Committee on Regulatory Improvement of the Secretary of Labor. Full-time members included safety engineers, lawyers experienced in drafting regulations, and policy analysts:

Paul Kaller, Deputy Director, Bureau of Hearing Counsel, Federal Maritime Commission;
Richard Greene, Office of General Counsel, Federal Energy Administration;
Judith Goldstein, Office of General Counsel, Pension Benefit Guarantee Corporation;
Margaret Weekes, Office of General Counsel, Department of the Treasury;
Lawrence Brill, Office of General Counsel, Department of Commerce;
Catesby Jones, Director of Safety, Naval Sea System Command, Department of the Navy;
Clarance Campbell, Safety Manager, Rock Island Arsenal, Department of the Army;
Coralee Kuhn, Regulatory Policy Analyst, National Bureau of Standards;
Ruth Day, Regulatory Specialist, Office of Administrative Law Judges, Food and Drug Administration;
Diane Menefee, Paralegal Specialist, Office of Commissioner Robinson, Federal Communications Commission;
Gary Geffert, Legal Publications Specialist, Federal Register.

In addition, two members of the OSHA safety staff served part-time, and the Task Force called upon a wide variety of safety experts from the Department of Defense and its safety schools.

The Task Force operated independently of the Department of Labor but reported progress monthly through the Committee on Regulatory Improvement. The Task Force began work on July 1, 1976, and ended its activities on December 27, 1976. The Task Force made a comprehensive review of Subpart O, which included: all the relevant decisions of the Occupational Safety and Health Review Commission; all petitions and variances and OSHA's responses to them; all relevant correspondence with OSHA; views of OSHA safety staff and field compliance staff; and all relevant consensus standards (as well as consultation with the committee members and the officers of the American National Standards Institute which developed most of those standards). The Task Force also read widely in the field of industrial safety from a bibliography prepared by the Library of Congress.

The Task Force developed the approach which is the subject of this notice. The Task Force believes such an approach will improve safety in the workplace while permitting necessary flexibility in meeting the obligations it imposes. The Task Force also believes its approach can undoubtedly be refined through robust comments.

In addition, the Task Force prepared a document comparing the current standards in Subpart O with the ANSI revisions of the standards on which the OSHA regulations are based and indicating key issues which should be addressed in revising the standards. The Task Force believes such an approach would substantially help the public focus on the important issues and would provide OSHA with necessary commentary and information to propose revisions. The Task Force presented that material to OSHA in September, and OSHA, with modifications, presents this document in the accompanying notice, published today at FR Doc. 77-101, 42 FR 1806.

The Task Force approach was reviewed in detail by the policy and standards subgroups of the National Advisory Committee on Occupational Safety and Health ("NACOSH") on October 7 and November 4 and by NACOSH itself on November 18. NACOSH recommended that OSHA publish the approach in an advance notice of proposed rulemaking, but requested that OSHA first investigate the litigation implications of the approach. This issue is discussed below. OSHA agrees that publication of the approach developed by the Task Force is a desirable way to solicit specific comments and information on the revision of Subpart O during the period when OSHA is searching for methodology appropriate to revision of consensus safety standards. The Task Force recommendations represent one possible approach to the revision process.

The Task Force Approach

The approach developed by the Task Force has three parts: general performance/hazard obligations, an illustrated guide on machine guarding, and a regulatory guide containing specification provisions.

The section on general obligations (§ 1910.213) enumerates the hazards which are associated with the use of machinery and requires each employer to use one of several specific methods of safeguarding to protect employees from injury caused by any of the hazards. The

illustrated guide to machine guarding (Appendix A) contains principles and techniques on general approaches that an employer could consult for guidance. The regulatory guide (Appendix B) contains more detailed specification provisions which may be applicable to particular machines and machine groups.

Because certain situations and machines are extraordinarily dangerous, the approach contains § 1910.217 which imposes mandatory specification standards. In these instances, the employer would not be free to select a method of safeguarding, but instead would have to adhere to any specification requirements set forth in the suggested § 1910.217. Because of the relatively narrow scope of these specification provisions, compliance with them would not automatically insure compliance with the broader requirements of suggested § 1910.213 as to that machine. The employer would have to take additional steps to insure that those portions of his operation not covered by the special rules meet suggested § 1910.213. It is anticipated that, if the approach is adopted, certain requirements pertaining to mechanical power presses would be included in § 1910.217.

The general performance/hazard obligations are set forth in several sections. Section 1910.211 defines the purpose and scope, while § 1910.212 lists relevant definitions.

Section 1910.213 defines the employer's duty in terms of protecting against identified hazards associated with the machinery covered by Subpart O. It requires the employer to install, safeguard, operate and maintain all machinery so as to avoid injury or death from the hazards listed in § 1910.214. These hazards are moving parts, flying material, falling material and inherently hazardous material and must be protected against in situations in which exposure would cause immediate rather than eventual harm to the individual.

Section 1910.215 contains a listing and description of the various types of guarding, at least one of which the employer must use in order to protect against the hazards created by his machinery. These methods of safeguarding are: barrier guard; shield; interlock; automatic device; remote control, placement, feeding and ejecting; location; and lockout. Paragraph (h) of this section sets forth secondary methods of safeguarding which may be used alone only when the employer can show that it is impossible to use any of the primary methods. The secondary methods are: awareness barrier or device; special hand-feeding tools or devices; safety blocks; tag-out; and personal protective equipment.

In order to provide guidance to employers with respect to how they can comply with the requirements of § 1910.213, the regulation contains two appendices. Appendix A contains a simplified explanation of the basic principles of guarding, with illustrations of various types of safeguarding devices. Additionally, this Appendix identifies 22 ANSI standards, relevant to machine guarding, which have not been reviewed or adopted by OSHA. These are published solely for informational purposes, and no approval by OSHA of these standards is intended by their inclusion in this Appendix.

Appendix B would contain detailed specification provisions on the types of safeguarding that could be used for various machine groups (such as abrasive wheels, mills and calenders, or mechanical power presses). It is anticipated that Appendix B will contain revisions of the existing OSHA standards on machine guarding. It is further expected that, if the approach set forth herein is adopted by OSHA, upon completion of appropriate rulemaking procedures, future Appendix B material would be based on other applicable national consensus standards as well as any other material that OSHA determines is appropriate, such as specification provisions developed by OSHA itself.

Compliance with either or both of the appendices would not be required; they are intended merely to serve as guidelines. However, for employers who desire certainty that they are in compliance with § 1910.213, the approach proposes a rule of presumptive compliance. As set forth in § 1910.216, if an employer chooses to comply with all of the requirements contained in Appendix B relating to a particular machine, he will be presumed to be complying with the requirements of § 1910.213, with respect to that machine, absent unusual conditions or circumstances in his workplace that would require additional or different safety practices from those specified in Appendix B. This concept of presumptive compliance seems appropriate because OSHA has reviewed and approved all of the material in Appendix B.

It must be stressed that the rule of presumptive compliance is only applicable in "ordinary" work situations. Unusual circumstances in the employer's workplace, such as the use of a machine for a purpose other than that for which it is generally intended, may defeat the presumption. Under the approach, OSHA would then determine whether the machine complies with § 1910.213.

AN EXAMPLE

Under the suggested approach, an employer could fulfill his obligations with respect to a machine in one of two ways. He could decide to follow all the applicable provisions in Appendix B, but he would first have to ensure that the machine is not used in unusual circumstances. Or, if the employer elects not to follow these provisions or if there are none applicable to his machine, the employer must analyze the machine to determine if it creates any of the enumerated hazards. If it does, then the employer must use at least one of the acceptable methods of safeguarding to protect the employees from the hazards.

Similarly, when making an inspection a compliance officer would assess each machine to determine if an employee is exposed to an enumerated hazard. If an employee was so exposed and an acceptable method of safeguarding was not used or applicable specification provisions were not followed, then the employer would be in violation of the regulation.

Under the suggested revision of Subpart O, OSHA would have the following burden of proof in sustaining a contested citation: (1) The presence of an enumerated hazard which may cause traumatic injury or death; (2) the absence of any of the listed methods of safeguarding or, where guarding is in use, its inadequacy to protect the employee from the hazard; (3) exposure of employees, such as the machine operator or other employees who have access to the point of hazard. The cited employer could, in turn, interpose any of the following defenses: (1) A factual defense rebutting the hazard on the grounds that it is de minimis, the adequacy of the method of safeguarding used, or the lack of exposure of employees; (2) compliance with all applicable provisions in Appendix B thereby creating a presumption of compliance and shifting the burden of proving unusual circumstances necessitating additional guarding to the Secretary; (3) compliance with all of the primary methods of safeguarding is impossible and that an appropriate secondary method is in use.

Issues Raised by the Task Force Approach

BREADTH OF COVERAGE

Currently, some have suggested that, because Subpart O does not explicitly state the extent of its coverage, there is some confusion as to which standards apply to particular machines. The approach makes explicit that it imposes a consistent performance-type standard which applies uniformly to all machines, regardless of function, unless they are specifically exempted from it.

OSHA solicits comment on whether this broad coverage would clarify the obligations, and whether there are additional machines or machine types which should be exempted because, for example, they are covered by other OSHA standards or the hazards presented are different from those enumerated.

COMBINATION OF PERFORMANCE AND SPECIFICATION STANDARDS

The April 23, 1976 notice pointed out that one of the major issues of the revision process is whether to use "performance" or "specification" standards. It is important to note that there are no commonly agreed to definitions of "performance" or "specification" standards. Rather there is a spectrum of obligations from the most general (section 5(a)(1) of the Act—workplace free from recognized hazards) to the most specific (rivets 5 inches apart).

Unlike a design standard which dictates how a machine must be constructed and operated, a performance standard states obligations in terms of ultimate goals which must be achieved. The employer is then free to achieve those goals through any appropriate means.

A large number of employers appear to favor the adoption of a performance

approach. These employers argue that the specification-type standard is unduly rigid, inhibits the development and use of new technology, and is often so complicated that many employers and employees cannot understand the standards. On the other hand, a significant number of employers have expressed concern that under a performance standard they would lack sufficient guidance to know exactly what they must do in order to comply with the regulations. Similarly, some employees have suggested that performance standards may not adequately inform them about what obligations are imposed on their concerns. A question has also arisen as to the degree to which a performance approach might impose greater burdens on OSHA compliance officers. The new approach embodies a performance standard, but also provides specific information in the appendices to the regulation to assist employers and employees in understanding how to safeguard in certain situations.

The approach sets forth a list of hazards and a list of acceptable safeguarding methods against which compliance can be tested: does a hazard exist, is an employee exposed, is an appropriate method of safeguarding used so that no employee is exposed? Hazards which could cause traumatic injury or death must be safeguarded. If no hazard is present, no safeguarding is necessary.

OSHA specifically solicits comment as to whether the obligations of the approach are sufficiently clear so that employers can readily determine what is required of them and that employees can more easily determine whether a safe workplace is being provided.

DEFINITION OF TRAUMATIC INJURY

Traumatic injury or death is defined by the model approach as bodily injury or death produced by any physical contact including contact with any thermal, chemical, or other agent capable of burning, corroding or otherwise causing bodily harm. This definition would be applicable only to those hazards which threaten an employee's safety, generally not to health hazards. OSHA solicits specific comments on the need for this distinctoni and on ways in which the definition can be clarified.

Comments are also invited on whether and how to exclude from coverage minor or insignificant injuries, and on the consistency of the above definition with those used in the OSHA statistical programs and in the worker's compensation program.

COMPREHENSIVENESS OF LIST OF HAZARDS

The suggested approach has attempted to catalog all of the hazards associated with the use of machinery, other than electrical hazards (covered under Subpart S) and those associated with hazardous materials (Subpart H) and toxic and hazardous substances (Subpart Z). Specific suggestions regarding additions to the list of hazards (§ 1910.214) and on ways in which the list can be improved are solicited. Comments are also invited on how to deal with new or unusual hazards.

COMPREHENSIVENESS OF METHODS OF SAFEGUARDING

The suggested approach has attempted to catalog all of the methods of safeguarding which effectively protect employees from hazards. Some are characterized as secondary methods of safeguarding, which can be used alone only if the employer can show that it is impossible to use any of the primary methods. OSHA solicits comments on the clarity of the definitions of the various methods (§ 1910.215), on whether additional primary or secondary methods of safeguarding should be included, and on whether the classification of the methods is appropriate.

Comment is also invited on the difficulty employers might encounter in matching safeguarding methods to hazards, and on whether the ability of an employer to use a secondary method inhibits his incentive to redesign his machine or use another machine in order to accomplish the same operation in a manner which permits use of a primary method of safeguarding. Finally, comment is invited on the likelihood that entirely new methods of safeguarding, not now included on the approved list, would be developed and on the problems that temporary exclusion of such methods, prior to rulemaking, might cause.

POSSIBLE VARIATIONS OF THE APPROACH

Two variations of the approach arose during the discussions by NACOSH. They are presented here for public comment.

VARIATION 1

This variation would require the employer to comply with all the requirements of the suggested approach described above and would make mandatory compliance with the specification standards in Appendix B. Compliance under this variation would involve a two-pronged process. An employer would have to comply both with the requirements of suggested § 1910.213 and also with all applicable specification standards. In effect, this variation would replace the existing § 1910.212 with the suggested approach.

Some have suggested that by requiring compliance with specification standards and by clarifying the performance standard, Variation 1 could lead to a higher level of workplace safety. Adopting this variation would raise the same objections discussed above with regard to specification standards. Another difficulty is that, because of the gaps of coverage in the specification standards, similar hazards would be subject to different guarding requirements. OSHA solicits comments on the merits of this variation.

VARIATION 2

The second variation would use the suggested approach including the specifications guidelines (Appendix B) but would also include a provision requiring an employer to follow the specification provision unless he could prove he has complied with the general requirements of suggested § 1910.213. Under Variation 2, OSHA would need only to prove, as now with regard to the specification standards of §§ 1910.213 to 1910.219, that an employer is not complying with a specification provision and that the employee was exposed to a hazard; and if an employer chooses to deviate from an applicable specification standard, he would have to prove that either the machine did not create a hazard or, if it did, that the hazard was adequately safeguarded. This would be the reverse of the burden of proof under the approach in which OSHA would have to prove the existence of a hazard in the workplace and the failure of the employer to adequately safeguard the hazard.

For example, under the approach if a citation were issued for failure to protect against the hazard of flying material on an abrasive wheel machine, OSHA would have to demonstrate that the flying material constituted a hazard to employees and that the employer had failed to use an effective method of safeguarding to protect against this hazard. On the other hand, under Variation 2, if the employer did not follow Appendix B, he would be presumed initially not to be in compliance with the regulation, and he would have to prove either that no hazard existed from the flying materials or that he had utilized an adequate safeguard to protect against the hazard. However, if the employer followed Appendix B, he would be presumed in compliance and OSHA would have to sustain the burden of proving that unusual circumstances existed in the employer's workplace which made the safeguarding method inadequate to protect against the hazard.

A potential advantage of this variation is that it may provide for easier enforceability by OSHA. However, current Subpart O does not contain specification standards for all types of machines. Since the burden of proof would be shifted only for those relatively limited numbers of machines for which specification standards exist, under Variation 2, the burden would be the same, absent a specification standard, as that under the suggested approach or under the current § 1910.212.

A potential difficulty is that it may be difficult to prove the non-existence of a hazard. In addition, this variation would tend to stress reliance upon technical specification standards.

Issues Regarding Mandatory Requirements

The suggested approach proposes some new mandatory requirements for employers and several others were considered. These are presented in this section to facilitate public comment on their usefulness in improving workplace safety. Some of these issues are further discussed in the accompanying notice, published today at 42 FR 1806.

TRAINING

The suggested approach would impose a requirement that each employee be instructed on the hazards created by the machines he will be using or their opera-

tion and that he be educated on the safe use, care and inspection of those machines before he begins to operate them. It further requires that the employee be adequately supervised to ensure the safe operation of the machines.

The suggested approach does not specify the extent or nature of training or supervision which it would require. OSHA solicits comment on whether it is necessary to make the requirements more specific and, if so, what specific obligations should be imposed.

MAINTENANCE AND INSPECTION

The suggested approach would impose a requirement that machines be inspected and maintained to ensure their safe operating condition. OSHA requests comments on whether it is feasible for OSHA to establish the parameters of the required inspection and maintenance program and what those parameters should be; or whether, because of the diverse types of machinery covered and because of the varying utilization of machinery, it is only practicable to require that each employer adopt a program that is reasonable in the context of his particular operations. OSHA also requests comments on whether a specific definition of maintenance should be included in the standard, and, if so, what it should be.

LOCKOUT AND TAGOUT

Some have suggested that tagout procedures are acceptable alternatives to lockout procedures and should not therefore be classified as a secondary method of safeguarding. Others say that they are not acceptable at all. OSHA requests comments on whether tagout procedures should be acceptable as a primary method of safeguarding, and on whether tagout procedures provide an adequate level of safety to be included even as a secondary method.

RECORDKEEPING

Some have suggested that the Task Force approach should require records of maintenance and inspection activity to be kept. They believe that the mere act of recordkeeping will focus attention on the need for these activities, which will in turn improve workplace safety. Others have suggested that recordkeeping would impose an unnecessary and substantial burden. OSHA requests comments on the effectiveness, burden, and retention period of such a recordkeeping requirement.

MACHINE CONTROLS

Some have suggested the inclusion of a separate section on machine controls which would require that controls: Be clearly marked as to function, be designed for operation without exposing an employee to a hazard, and be designed to prevent inadvertent operation. Others are of the view that all of these requirements are encompassed within the current language of the model approach in all those instances where an employee would be exposed to a hazard caused by deficient machine controls. OSHA requests comment on whether a separate section containing detailed machine control requirements is necessary or whether it is clear that such requirements are imposed by the suggested approach.

SPECIAL RULES

The suggested approach contains a § 1910.217 which would impose mandatory specification standards which must be followed. These mandatory standards would be imposed only for those machines or machine operations which are particularly dangerous, when little discretion as to how to safeguard the hazard can be provided. OSHA invites comments on what types of machines and machine operations should be included in this mandatory section, and what criteria should be used to make such determinations.

PUBLIC PARTICIPATION

As discussed above the purpose of this notice is to gather as much relevant data and comments as possible from as many interested persons as possible. Public participation in this information gathering process is critical to its success. All persons concerned with these regulations, including employees who are protected by them, employers who must comply with them, experts in machine guarding, elected representatives and members of the public at large, are urged to participate in this process.

You are invited to submit written comments on the issues raised in this notice or on any other aspects of the regulations concerning machine guarding. Comments are solicited on the existing standards of Subpart O, raised in the accompanying detailed three-column presentation, as well as on the suggestions, comments, and other matters discussed in this document. Any additional recommendations pertaining to the subject matter of Subpart O are equally welcome, and will materially assist OSHA in making determinations with respect to a possible subsequent proposal.

These comments should be in the form not only of agreement or disagreement with the issues set forth, but should include alternatives, data (including injury data) to support recommendations, reasons and rationale for positions, and issues not raised herein.

Written comments should be submitted on or before April 7, 1977 and should be sent to Docket O, Technical Data Center, Room N3620, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210. Written submission should clearly identify the standards or sections addressed and the position taken. The data, views, and information submitted will be available for public inspection and copying at the above address.

Everyone interested in commenting, employees, employers, manufacturers, and others with data, are urged to submit their comments and information in writing. In addition to this request for written submissions, OSHA is scheduling several public meetings at various locations around the country to afford the public the widest possible opportunity to submit their data and views. The meetings will be held on the dates and at the locations listed below:

Dates: March 1-3, 1977:
Athanta—Gulf Oil Building, Room 185, 1375 Peachtree Street, N.E.
Boston—Hilton Hotel, Logan Airport.
Cleveland—Cleveland Holiday Inn, 1111 Lakeside.
Dates: March 8-10, 1977:
Chicago—Sheraton O'Hare, 6810 N. Mannheim Road.
Dallas—Baker Hotel, The Texas Room, 1400 Commerce Street.
Denver—Stouffers Denver Inn, 3203 Quebec St.
Dates: March 15-17, 1977:
Los Angeles—Biltmore Hotel, Roman Room, 515 So. Olvie St.
Winston-Salem—Benton Convention Center, Conference Rooms Nos. 6 & 7, 301 West 5th St.
Dates: March 22-24, 1977:
Kansas City—Philip House, The London Room, 12th and Baltimore.
New York—U.S. Department of Labor, Room 3560, 35th Floor, 1515 Broadway.
Seattle—Edgewater Inn, 2411 Alaskan Way.

Each meeting will begin prompty at 10 a.m., will recess from 12 noon until 2 p.m., and will continue until 5 p.m. Although OSHA has scheduled evening sessions for public meetings of this sort in the past, participation in such sessions was very limited. However, OSHA will either extend the evening schedule or schedule a separate night meeting, if a sufficient number of requests are received to warrant such action. The meetings are intended as a forum for the public to orally submit information concerning issues raised by this notice and any others concerning machine guarding. The chairperson of each meeting will be a representative of the Department of Labor designated by the Assistant Secretary for Occupational Safety and Health, and will have all necessary authority to regulate the conduct of the meetings.

In order to reasonably anticipate the response at each meeting location, OSHA requests that any person wishing to make an oral presentation notify OSHA by advance written notice. The notice should identify the person and/or organization intending to testify, the amount of time requested for oral presentation, and the subject matter and a brief summary of the intended oral presentation, if possible. Such written notice of a desire to make an oral presentation should be sent to Docket O, Technical Data Center, Room N3620, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C. 20210, no later than two weeks before the scheduled meeting date. All persons giving advance notice by mail will have time reserved for oral presentation. Persons wishing to testify, who have not submitted advance notice, are requested to register for each meeting at the place and on the day scheduled, from 9 a.m. to 10 a.m.

As long as time permits, all persons who wish to be heard will be allowed to make oral presentations. However, should time restraints so require, priority will be made for OSHA's use in resolving vance.

A written transcript of these meetings will be made for OSHA's use in resolving the various issues raised by these proceedings. Copies of the transcripts will be available for inspection at the Technical Data Center, U.S. Department of Labor, Room N3620, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Following completion of the meetings and expiration of the comment period, OSHA will review all the information, arguments, views, and data collected as well as any other relevant data. If appropriate, OSHA will develop a proposal to amend the existing standards and will initiate rulemaking proceedings under section 6(b) of the Act. In the event that a new proposal is issued, all the information gathered will become part of the public record in that proceeding.

Signed at Washington, D.C., this 27th day of December 1976.

MORTON CORN,
Assistant Secretary of Labor.

PART 1910—MACHINERY AND MACHINE GUARDING

Subpart O—Machinery and Machine Safeguarding

Sec.

1910.211 Purpose and scope.
1910.212 Definitions.
1910.213 General requirements.
1910.214 Hazards of machines.
1910.215 Methods of safeguarding the point of hazards.
1910.216 Rules for compliance.
1910.217 Special rules.
Appendix A—Principles and Techniques of Machine Safeguarding.
Appendix B—Regulatory guide on specification provisions.

Subpart O—Machinery and Machine Safeguarding

§ 1910.211 Purpose and scope.

(a) *Purpose.* The purpose of this Subpart is to set forth mandatory performance criteria for protecting against those hazards which are associated with operation of machinery and which may cause traumatic injury or death and to provide methods for safeguarding against such hazards. In addition to these mandatory requirements, certain specifications and diagrams intended as guidelines for compliance are provided in the Appendices to this Subpart.

(b) *Scope.* (1) This subpart applies to all machinery except as provided in paragraph (b)(2) of this section. Examples of machinery subject to this Subpart are:

(i) *Sawing, boring, and finishing machinery*

Power-driven saws	Sanding machines
Cooperage machinery	Grinding and abrasive wheel machines
Milling machines	
Polishing and buffing machines	Wirebrush machines
Drilling and boring machines	

(ii) *Cutting and shaping machinery*

Lathes	Tenoning machines
Turning machines	Planing machines
Shapers	Routers
Jointers	

(iii) *Machines for farm and cold forming of materials*

Mechanical power presses	Punches
	Pneumatic presses
Hydraulic presses	Iron workers
Compactors	Extruders
Balers	Headers
Shears	Rollers

(iv) *Machines for hot forming materials*

Forging hammers	Upsetters
Presses	Extruders
Rollers	Shears
Die casting machines	Molding machines

(v) *Other*

Belts, chains, pulleys, sprockets and similar apparatus
Roller mills and calendars
Ball mills, crushers, and similar machines
Rivet setting equipment and similar fastening machines
Folding, crimping, scoring, and similar machines
Packaging and canning machines
Stationary refuse collection equipment
Sewing, stitching and similar machines
Mixers

(2) This Subpart does not apply to the following:

(i) Machinery subject to Subparts F, M, N, P, Q, and R of this Part; and

(ii) Vehicular equipment.

§ 1910.212 Definitions.

For purposes of this Subpart:

"Cutting and shaping machines" means any power driven equipment used to shape or form materials by means of mechanical or electrical cutting. Mechanical presses are excluded from this definition and are included under machines for warm or cold forming materials.

"Hand-feeding tool" means any hand-held device used to insert, manipulate, or remove the workpiece.

"Machine for warm or cold forming material" means any power driven equipment used to shape or cut material at ambient temperatures of less than 149° F (65° C) through impact or pressure forces.

"Machine for hot forming material" means any equipment used in the process of cutting or shaping materials at 149° F (65° C) or higher by melting and molding or by impact or pressure forces.

"Point of hazard" means that zone or area of or near any machine, machine part, or workpiece—including the point of operation—which, if entered or contacted by an employee, may subject the employee to danger or traumatic injury or death.

Machine motions or actions which are commonly recognized as possibly subjecting an employee to such hazards include:

1. Rotating, reciprocating, and transverse motions;
2. In-running nip points;
3. Cutting actions; and
4. Pressing, punching, shearing, and bending actions.

Machinery at rest which may subject an employee to a danger of traumatic injury include the cutting edge of saws or shears, hot dies, elevated tools subject to release, and pressurized systems.

"Point of operation" means that point where the workpiece is positioned, and work such as drilling, milling, boring, shearing, cutting, punching or grinding is performed upon the workpiece during the production process.

"Presence-sensing device" means a device which creates a sensing field or area and initiates action to stop the machine when a hand or other body part enters the sensing field or area.

"Sawing, Boring or Finishing Machine" means any power-driven equipment used to bore, drill, or change the shape or size of a piece of wood, plastic, metal or other material, or to finish a piece of wood, plastic, metal or other material by sanding, grinding, buffing or similar operations.

"Traumatic injury or death" means bodily injury or death produced by any physical contact, including contact with any thermal, chemical or other agent capable of burning, corroding or otherwise causing bodily harm.

"Two-hand control" means a machine actuating device requiring concurrent use of both hands of the operator(s) and continued concurrent pressure from both hands (or pairs of hands) during that part of the machine running cycle in which a hazard exists.

"Two-hand trip" means a machine actuating device requiring concurrent use of both hands of the operator to trip or initiate a machine cycle.

"Workpiece" means the material to be processed.

§ 1910.213 General requirements.

(a) *Protection against hazards.* Each employer shall install, safeguard, operate and maintain at all times all machinery subject to this Subpart in a manner which protects all employees from traumatic injury or death resulting from the hazards enumerated in § 1910.214. One or more of the methods of safeguarding described in § 1910.215 shall be used to protect employees against the hazards enumerated in § 1910.214.

(b) *Employee training and supervision.* Each employer shall establish a training program for operators, inspectors, and maintenance personnel for the purpose of instructing and training them in the hazards presented by and the safe use, care and inspection of their machines before they begin operation on a machine. Each employer shall also provide adequate supervision of employees so that safe operating, set-up and maintenance procedures are followed.

(c) *Machine inspection.* Each employer shall establish a program for the periodic and regular inspection of machinery subject to this Subpart so that all parts, auxiliary equipment, and safeguards are in a safe operating condition. Maintenance or repair, or both, necessary to provide a safe operating condition shall be performed and completed before the machines are operated.

§ 1910.214 Hazards of machines.

The following are hazards which must be protected against in accordance with § 1910.213, where physical

contact with them may cause traumatic injury or death.

(a) *Moving parts*—rotating, reciprocating, in-running, cutting, punching, shearing, sawing, bending, or any other moving machine parts, actions, accessories, workpieces, or mechanical power transmission apparatus.

(b) *Flying material*—flying chips, sparks, workpieces, workpiece fragments, or fragments of machine parts or accessories, substances in a vacuum or under pressure, constraint or tension which may be released in an uncontrolled way.

(c) *Falling material*—elevated workpieces, machine parts or accessories.

(d) *Inherently hazardous material*—sharp or pointed machine parts or workpieces, extremely hot or cold machine parts or workpieces, or highly reactive, flammable or caustic workpieces or substances used in machine operations.

§ 1910.215 Methods of safeguarding the point of hazard.

Methods are classified into two groups: primary methods (paragraphs (a) through (g)), any of which may be used to protect employees against hazards, and secondary methods (paragraph (h)) which may be used alone only if it is impossible to use any of the primary methods.

(a) *Safeguarding by barrier guard.* Safeguarding by barrier guard is accomplished when the machinery is equipped with an enclosure which prevents hands, fingers, or other parts of the employee's body from reaching through, over, under, or around the enclosure into the point of hazard.

(b) *Safeguarding by shield.* Safeguarding by shield is accomplished when machinery is equipped with a fixture which prevents chips, sparks, coolants, fluids, hazardous materials, workpieces, workpiece fragments or fragments of machine parts or accessories from flying out in the direction of the operator or other employees.

(c) *Safeguarding by interlock.* Safeguarding by interlock is accomplished when machinery is equipped with a device which:

(1) Prevents or immediately stops all motion at the point of hazard whenever any employee opens or removes an enclosure, barrier, or shield or whenever any part of an employee's body comes in contact with a bar, rod, or wire, or interrupts a photo-electric beam, magnetic or electrical field, or a pressure sensor or similar presence sensing device; and

(2) Prevents the resumption of motion at the point of hazard until some deliberate action is taken to reset the machinery or equipment.

(d) *Safeguarding by automatic device.* Safeguarding by automatic device is accomplished when machinery is equipped with a device which, through a system of linkages connected to the operating mechanism, pushes or pulls an operator, or any part of his body, away from a point of hazard.

(e) *Safeguarding by remote control, placement, feeding, and ejecting.*

(1) *Two-hand trip.* Safeguarding by two-hand trip is accomplished when:

(i) Concurrent pressure of both hands on the actuating device is necessary to initiate or trip the machine;

(ii) The actuating device is a sufficient distance from the point of hazard to prevent the operator's hands from entering the point of operation while the hazard exists; and

(iii) If more than one employee is exposed to the hazard additional two-hand trips are installed so that all employees must activate the starting mechanism concurrently.

(2) *Two-hand control.* Safeguarding by two-hand control is accomplished when the requirements of paragraph (e)(1) of this section are met and the machine brake, power disconnect, and/or clutch systems are adjusted to stop all machine motion if any of the controls are released prior to the cessation of the hazard and the machine is adjusted to prevent resumption of motion until the machine has been reset.

(3) *Automatic or semi-automatic feed, stripping or removal.* Safeguarding by automatic or semi-automatic feed, stripping, ejection, or removal, is accomplished when the workpiece or material is fed into the machine by chutes, hoppers, conveyors, movable dies, dial feed rolls, strippers, or other similar devices, and barrier guards prevent entry into the point of hazard or shields prevent exposure to flying material.

(f) *Safeguarding by location.* Safeguarding by location is accomplished when any of the following conditions exist:

(1) The machinery is located so as to protect against inadvertent contact with or entry into a point of hazard;

(2) The machinery is located in an enclosed area and employees are prevented from entering or having access to the machinery when the machinery is operating and the machine controls have lockout capability;

(3) The operator controls the operation from an enclosure which protects against inadvertent contact with, or entry into, a point of hazard, and the machine controls have lockout capability. Additional safeguards are required if other employees may be exposed to the point of hazard.

(g) *Safeguarding by lockout.* Safeguarding by lockout is accomplished when all motion in the point of hazard, whether caused by a power source or gravity, is physically prevented from restarting and any inherently hazardous material is expelled from the point of hazard and its further release is physically prevented.

(h) *Secondary safeguarding.* The following safeguards may be used alone only when the employer can establish that it is impossible to use any of the methods of safeguarding set forth in paragraphs (a) through (g) of this section.

(1) *Secondary safeguarding by awareness barrier or device.* Safeguarding by awareness barrier or device is accomplished when machinery is equipped with an enclosure or audio or visual device that warns an employee that he is approaching a point of hazard.

(2) *Secondary safeguarding by special hand-feeding tools or devices.* Safeguarding by special hand-feeding tools or devices is accomplished when specially designed hand-feeding tools for placing material into, manipulating, or removing material from the point of hazard are utilized.

(3) *Secondary safeguarding by safety blocks.* Safeguarding by the use of safety blocks is accomplished when blocks are manually or mechanically placed into the point of hazard or prevent machine movement.

(4) *Secondary safeguarding by tag out.* Safeguarding by tag out is accomplished when warning tags are placed on machine controls clearly indicating that machinery is not to be operated.

(5) *Secondary safeguarding by personal protective equipment.* Safeguarding by personal protective equipment is accomplished when the requirements of Subpart I of this Part are complied with.

§ 1910.216 Rules for compliance.

(a) In order to comply with § 1910.213(a), each employer shall determine the appropriate methods of safeguarding from § 1910.215 to use in protecting against the hazards listed in § 1910.214. Appendices A and B to this Subpart are set forth in order to provide employers with guidance in meeting the requirements of § 1910.213(a). If an employer chooses to follow all the applicable specification provisions contained in Appendix B, he shall be presumed to be in compliance with § 1910.213(a), except where unusual circumstances or conditions exist in his workplace which require additional or more stringent protection of employees.

(b) In addition to the requirements of paragraph (a) of this section, the special rules of § 1910.217 are mandatory requirements which must be met by all employers to whom the particular requirements apply.

§ 1910.217 Special rules. [Reserved]

APPENDIX A

PRINCIPLES AND TECHNIQUES OF MACHINE SAFEGUARDING

TABLE OF CONTENTS

I. Actions and motions that create hazards 1
Rotating, reciprocating, and transverse motions 1
In-running nip points 4
Cutting actions 5
Punching, shearing, and bending actions 6
II. Summary of safeguarding methods 7
III. Techniques of machinery safeguarding 9
Guarding rotating, reciprocating, or transverse motions 12
Guarding in-running nip points 22
Guarding cutting actions 29
Guarding punching, bending, and shearing actions 40
IV. Guard construction and specifications 53
V. Voluntary ANSI standards 56

I. ACTIONS AND MOTIONS THAT CREATE HAZARDS

Since safety standards cannot be drawn which will cover every conceivable hazardous mechanical exposure, it is often necessary to use imagination and ingenuity to protect unusual situations. If the basic hazardous actions and motions are understood, it is easier to evaluate the hazard and to develop effective control measures, whatever the machine. Actions or motions involving the most hazardous exposures may be classified as:

Rotating, Reciprocating, and Transverse Motions.

In-Running Nip Points.

Cutting Actions.

Punching, Shearing, and Bending Actions.

A discussion of these actions or motions, along with typical illustrations of each, follows:

Rotating, Reciprocating, and Transverse Motions

Rotating, reciprocating, and transverse motions create hazards in two general areas—at the point-of-operation where work is being done, and at the points where power or motion is being transmitted from one part of a mechanical linkage to another. Since guarding at the point-of-operation will be discussed under the other classifications of action or motion, this section will be devoted primarily to situations where power is being transmitted or the point-of-operation is not clearly defined (extractors, mixers, etc.).

Any rotating object is dangerous. Even smooth, slowly rotating shafts can grip clothing or hair, and through mere skin contact force an arm or hand into a dangerous position. Accidents due to contact with rotating objects are not frequent, but the severity of injury is always high.

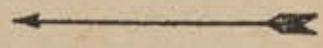
Collars, couplings, cams, clutches, flywheels, shaft ends, spindles, rotating bar stock, lead screws, and horizontal or vertical shafting are typical examples of common rotating mechanisms which are hazardous. The danger increases when bolts, oil cups, nicks, abrasions, and projecting keys or screw threads are exposed when rotating.



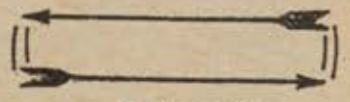
Rotating.

In many cases, the rotating mechanism is located within a stationary case or shell and consists of a revolving cylinder, a screw, agitator blades, or paddles. Washing machines, extractors, raw material mixers, and screw conveyors are typical examples of this type of hazardous rotating mechanism.

Reciprocating and transverse motions are hazardous because, in the back and forth or straight line action, a worker may be struck or caught in a pinch or shear point between a fixed or other moving object.

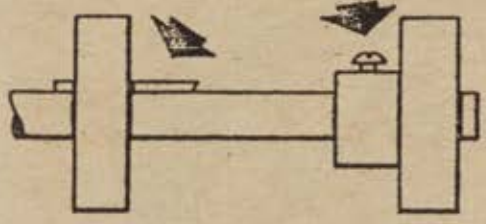


Transverse (in straight line).

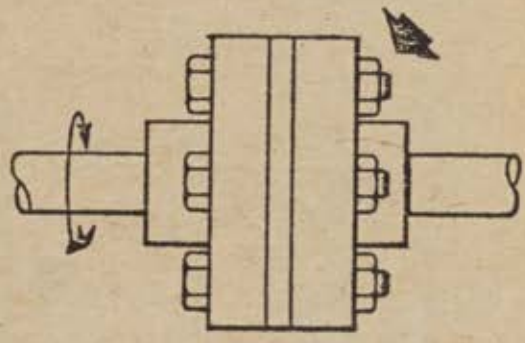


Reciprocating.

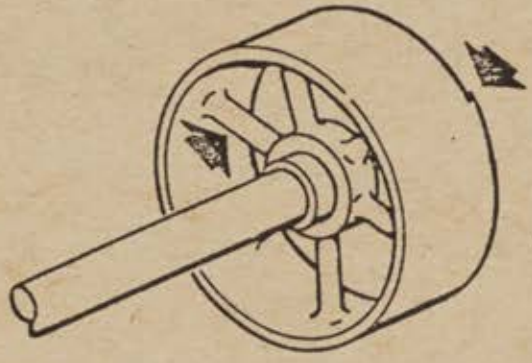
Examples of Typical Rotating, Reciprocating, and Transverse Mechanisms



Rotating shaft and pulleys with projecting key and set screw.

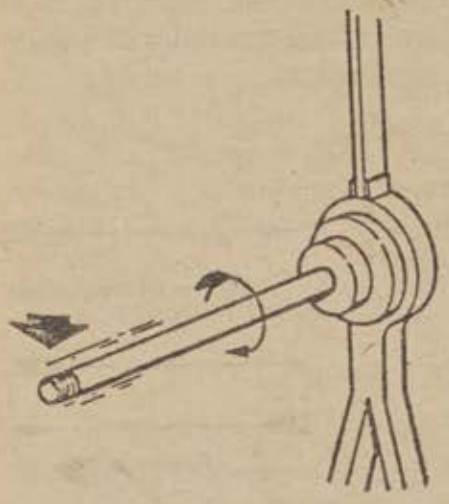


Rotating coupling with projecting bolt heads.

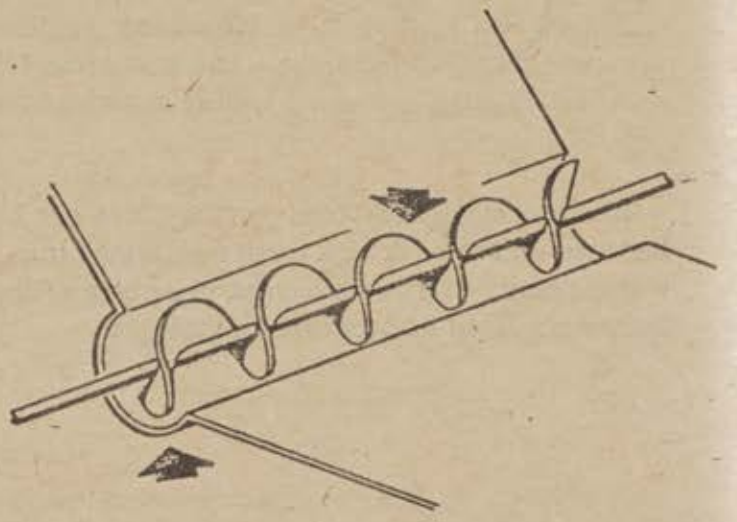


Rotating pulley with spokes and projecting burr on face of pulley.

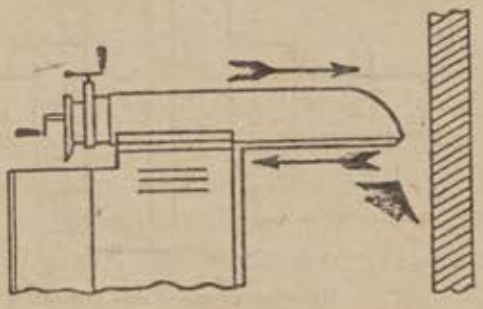
Examples of Typical Rotating, Reciprocating, and Transverse Mechanisms



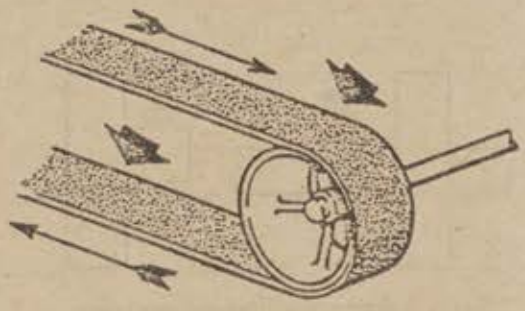
Rotating bar stock at end of screw machine.



Rotating screw conveyor.



Reciprocating action of machine creating pinch point at fixed object.

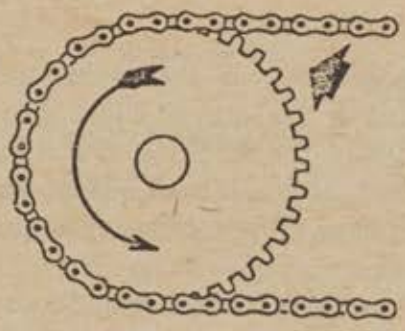


Transverse motion of belt and rotating pulley.

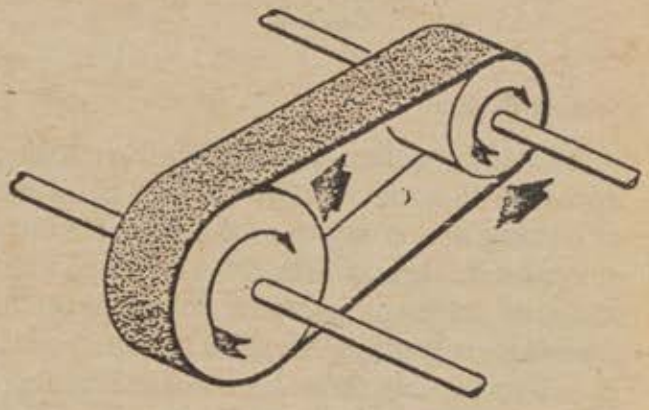
In-Running Nip Points

In-running nip points are a special danger existing only through action of rotating objects. Whenever machine parts rotate toward each other, or where one rotates toward a stationary object, an in-running nip point is formed. Objects or parts of the body may be drawn into this nip point and be bruised or crushed.

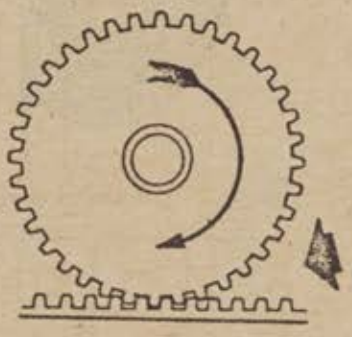
The in-running side of rolling mills and calenders, of rolls used for bending, printing, corrugating, embossing or feeding and conveying stock, the in-running side of a chain and sprocket, belt and pulley, a gear rack, a gear and pinion, and a belt conveyor terminal are typical examples of nip point hazards.



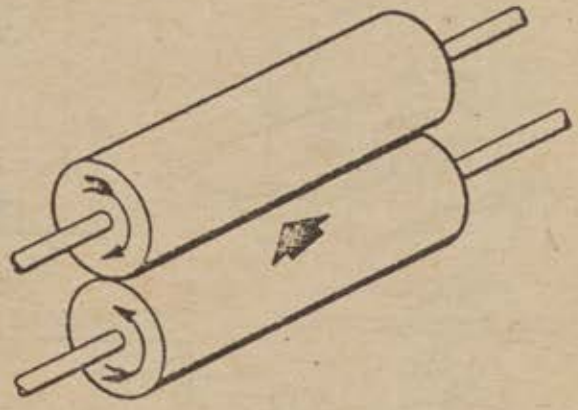
Chain and sprocket.



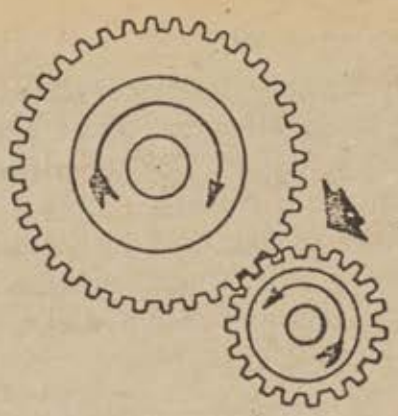
Belt and pulley.



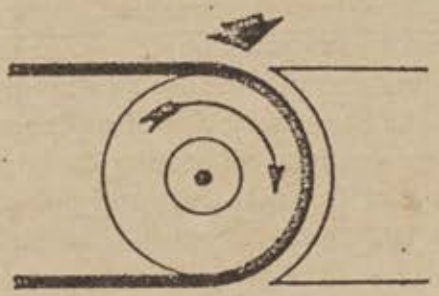
Rack and gear.



Pressure rolls.



Gear train.



Conveyor terminal.

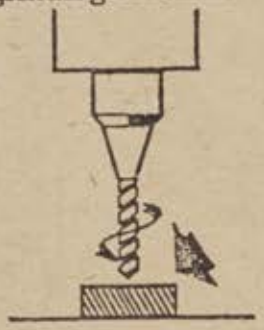
Cutting Actions

Cutting action results when rotating, reciprocating, or transverse motion is imparted to a tool so that material being removed is in the form of chips. The danger of cutting action exists at the movable cutting edge of the machine as it approaches or comes in contact with the material being cut. Such action takes place at the point-of-operation in cutting wood, metal, or other materials as differentiated from punching, shearing, or bending by press action.

Typical examples of mechanisms involving cutting action include band and circular saws, milling machines, planing or shaping machines, turning machines, boring or drilling machines, and grinding machines.



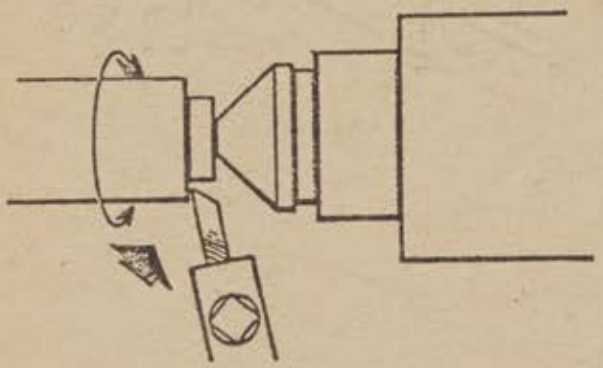
Circular saw.



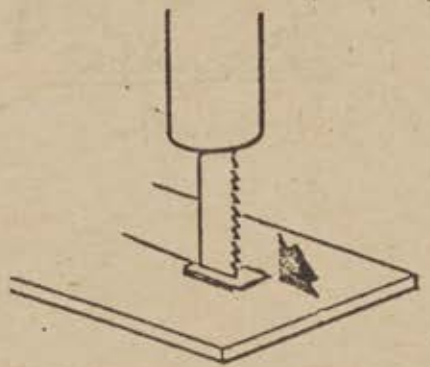
Drill.



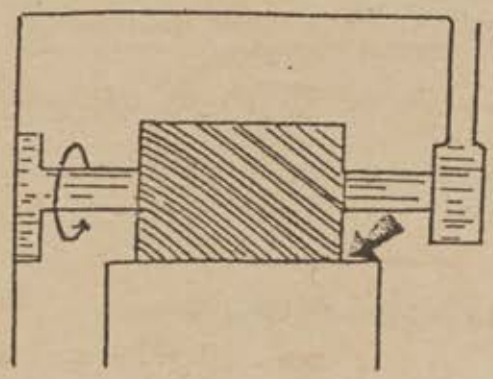
Abrasive wheel.



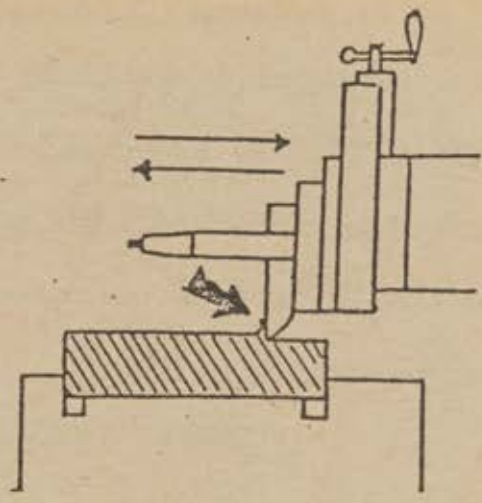
Engine lathe.



Band saw.



Milling machine.

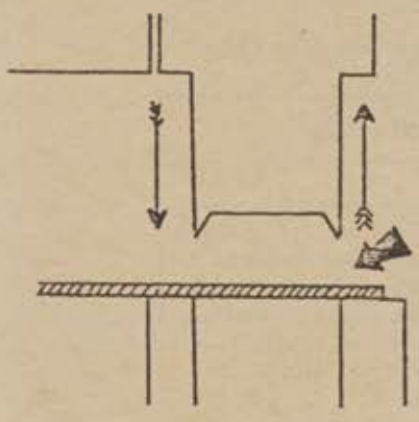


Shaper.

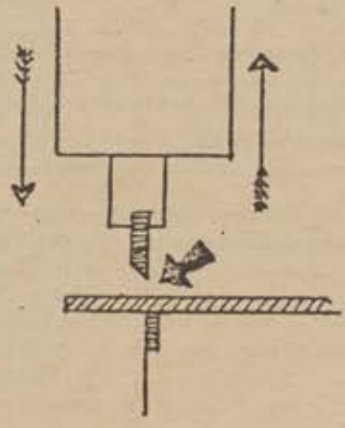
Punching, Shearing, and Bending Actions

Punching, shearing, or bending action results when power is applied to a ram (plunger) or knife for the purpose of blanking, trimming, drawing, punching, shearing, or stamping metal or other materials as differentiated from removing the material in the form of chips. The danger of this type of action lies at the point-of-operation where stock is actually inserted, maintained, and withdrawn.

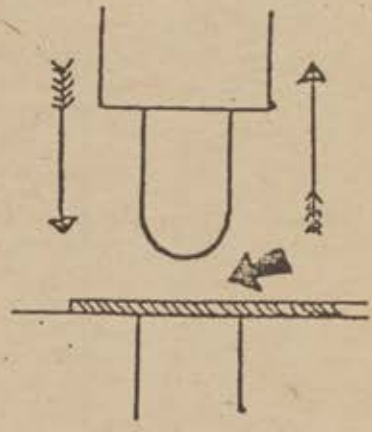
Typical examples of equipment involving punching, shearing, or bending action include power presses, foot and hand presses, bending presses or brakes as well as squaring, guillotine, and alligator shears.



Punching.



Shearing.



Bending.

II. SUMMARY OF SAFEGUARDING METHODS

Methods of guarding actions and motions cited in §1910.214 are addressed in the following tables detailing the functions and actions of the various guarding methods with limitations which may be applicable to a particular safeguarding method:

Methods of Guarding Actions and Motions—Enclosure Guards

Guarding methods	Guard action
Fixed enclosure	Barrier or enclosure which admits the stock but which will not admit hands into danger zone because of feed opening size, remote location, or unusual shape. Also used to completely enclose power transmission apparatus. Used to contain bursting machine parts.
Adjustable enclosure	Barrier or enclosure which is adjusted to fit around different sizes or shapes of the die. When adjusted, provides same protection as fixed enclosure.

Methods of Guarding Actions and Motions—Interlocking Guards

Guarding methods	Guard action
Enclosure with electrical or mechanical interlock.	Enclosure or barrier shuts off or disengages power and prevents starting of machine when guard is open; prevents opening of the guard while machine is under power or coasting. (Interlocks should not prevent manual operation or "inching" by remote control.)
Barrier with electric contact or mechanical stop activating mechanical or electric brake.	Barrier quickly stops machine or prevents application of injurious pressure when any part of the operator's body contacts it or approaches danger zone.
Electric eye	Electric-eye beam and brake quickly stops machine or prevents its starting if the hands are in the danger zone.

Methods of Guarding Actions and Motions—Automatic Guards

Guarding methods	Guard action
Push-away device with barrier.	A movable barrier, attached to pressure part, pushes or lifts hands out of danger zone.
Pull-away device.....	A cable operated attachment on ram, connected to the operator's hands or arms to pull the hands back only if they remain in the danger zone; otherwise, it does not interfere with normal operation.
Limitation of stroke.....	Plunger travel limited to 3/8 inch or less; fingers cannot enter between pressure points.

Methods of Guarding Actions and Motions—Remote Control, Placement, Feeding, Ejecting

Guarding methods	Guard action
Two-hand trip (can be adapted to multiple operation).	Simultaneous pressure of two hands on switch buttons in series actuates machine.
	Simultaneous pressure of two hands on air control valves, mechanical levers, controls interlocked with foot controls, or the removal of solid blocks or stops permits normal operation of machine.

Automatic or semiautomatic feed (with enclosure of danger points).	Stock fed by chutes, hoppers, conveyors, movable dies, dial feed rolls, etc. Enclosure will not admit any part of body.
Special jigs or feeding devices.	Hand-operated feeding devices of metal or wood which keep the operator's hands at a safe distance from the danger point.
Special tools or handles on dies.	Long handled tongs, vacuum lifters, or hand die holders which avoid need for operator putting his hand in the danger zone.
Special ejecting devices...	Air or mechanical ejection.....

[Tables on guarding by location, awareness devices and lockout should follow here.]

III. TECHNIQUES OF MACHINERY SAFEGUARDING

It is recognized that a given situation—a hazard-creating motion or action—may frequently be guarded in a number of ways, several of which may be satisfactory. The selection of guarding method to be used may depend upon a number of things—space limitations, production methods, size of stock, frequency of use, and still other factors may be important in making the final decision. It is not the intent of this appendix suggest which method of guarding is the best for a given situation, but rather to show that there are a number of ways to guard each different condition. This will be done by illustrative typical situations which may be guarded by a variety of methods.

In the illustrations, the various motions and actions are shown with typical guards illustrating the various guarding techniques. It is not possible to apply all of the guarding techniques to all of the motions or actions, but an effort has been made to show those that are frequently found in industry.

Illustrations contained in this section of Appendix A are as follows:

	Page
Abrasive wheel	36
Acceptable guard construction	53
Alligator shears	42
Band saw	39
Bar stock	17
Belt and pulley	24
Bevel gear	23
Calender stack drive	24
Conveyor belt, pulleys, and belt tightener	23
Coupling	13
Disc sander	32
Double end tenoner	33
Dough brake	28
Dough mixer, tilting	19
Drill	35
Drum-corrugating machine	25
Drum sander	32
Edger	34
Extractor cover	19
Flatwork ironer	28
Flywheel	14
Flywheel with horizontal belt	16
Food grinders	
Guillotine shear	46
Horizontal shafting	13
Horizontal shafting and belt and pulley	13
Jointer	37
Lathes	39
Leveling machine	
Metal roll	27
Method of fastening filler to frame	
Milling machines	35
Overhead horizontal belt and pulley	15
Paper corner cutter	45
Paper roll winder	26
Paper slitter	45
Planer	33
Planer table	18
Platen press	48
Power brake	48
Power shears	49
Punch press	43,50
Radial saw	31
Rip saw	30
Roll feed sander	32
Router	35
Safety set screws	21
Safety shaft couplings	21

Page

Screw machine 20
Self feed rip saw 34
Shaft end 13
Shaper guards 38
Shears 45
Sheave guards 25
Shuttle guard on loom 18
Size of filler materials .....
Size of framework materials .....
Spur gear 22
Squaring shear 44
Swing saw 31
Tanning drum 20
Textile finishing machine 29
Tilting table saw 30
Treadle guards for presses and shears 42
Tumbler barrel 20
Veneer clipper 44
Vertical boring mill 17
Vertical shafting 13
Washing machine 19
Winder drum end guard 14

GUARDING ROTATING, RECIPROCATING, OR TRANSVERSE MOTIONS

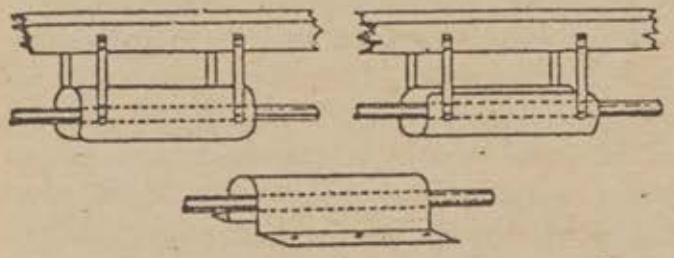
Rotating, reciprocating, and transverse motions are forms or directions of motion that are used for a variety of purposes. They may be used to transmit power, as for example a revolving shaft or pulley (rotating), a moving piston (reciprocating), or a moving belt (transverse). Motions are also used to perform work by giving action to a tool or die which performs a cutting or shearing action. Thus, a circular saw or milling cutter (rotating), a metal planer or shaper (reciprocating), or a band saw (transverse) are examples of using motion to perform useful work by means of a tool.

Motion is also used as a means of performing work without the cutting action of tools. A centrifugal extractor or dough mixer (rotating), a shaker screen (reciprocating), or a belt or screw conveyor (transverse) are examples of using the energy of motion to perform useful work.

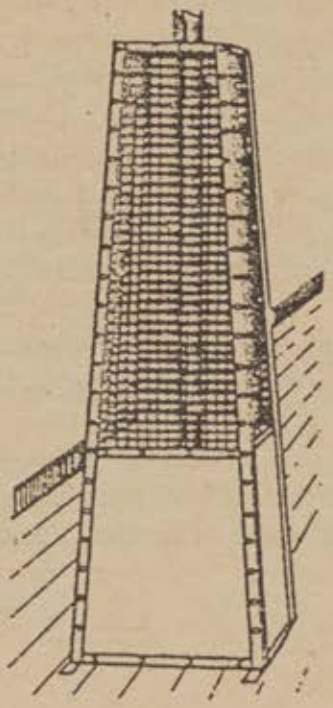
The illustrations on the next nine pages are intended to show recognized techniques for guarding various forms of motion used for transmitting power and for performing work without the benefit of tools.

Where tools are used to perform useful work, a cutting, punching, bending, or shearing action is involved. Techniques of guarding these various actions will be illustrated under the general heading of the type of action, instead of under the heading of the type of motion, used to drive or power the tool.

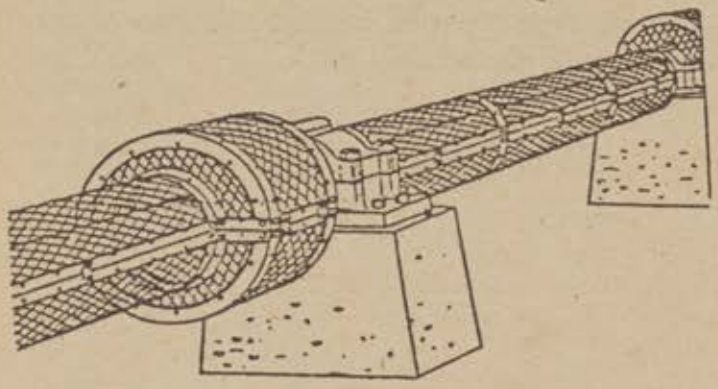
Guarding Rotating Motion by Enclosure Guards



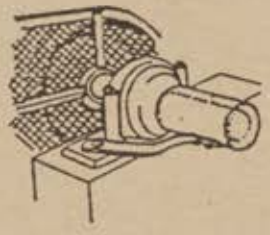
Horizontal shafting.



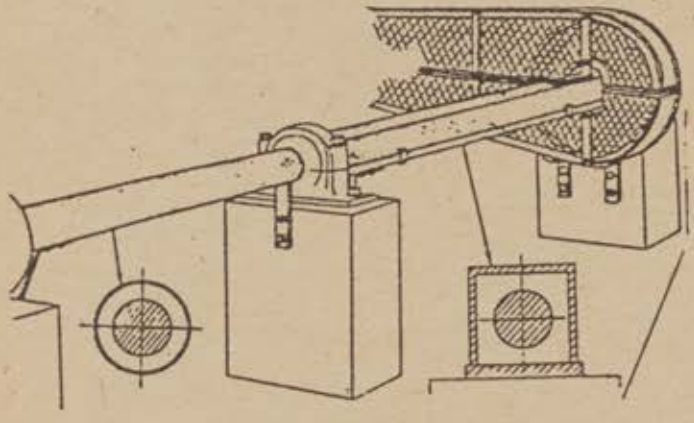
Vertical shafting.



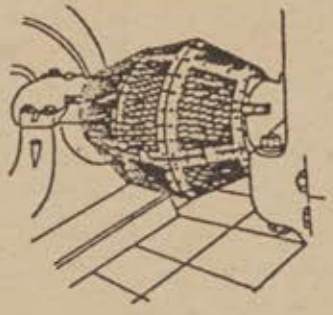
Horizontal shafting.



Sleeve for shaft end.

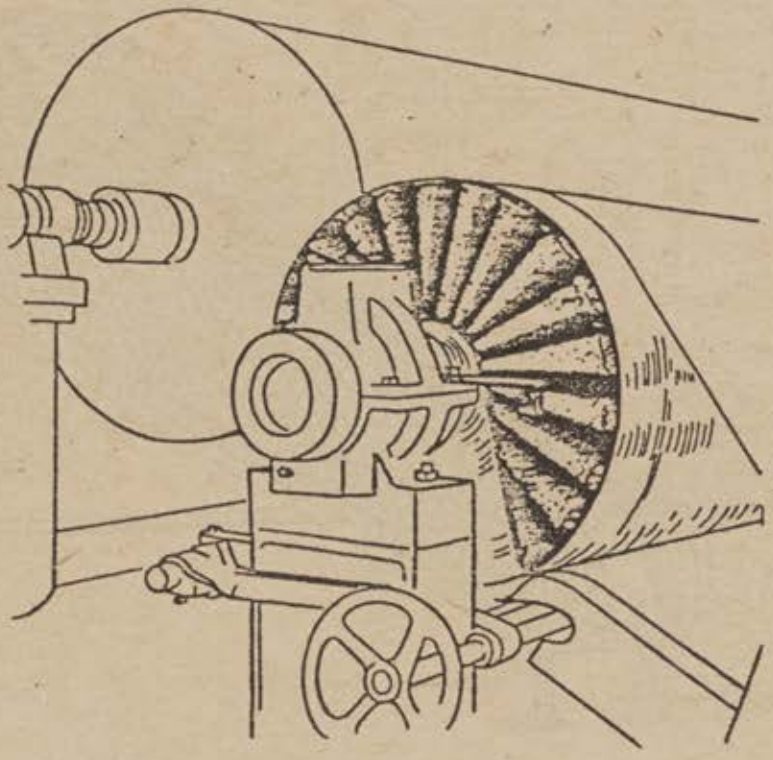


Horizontal shafting and belt and pulley.

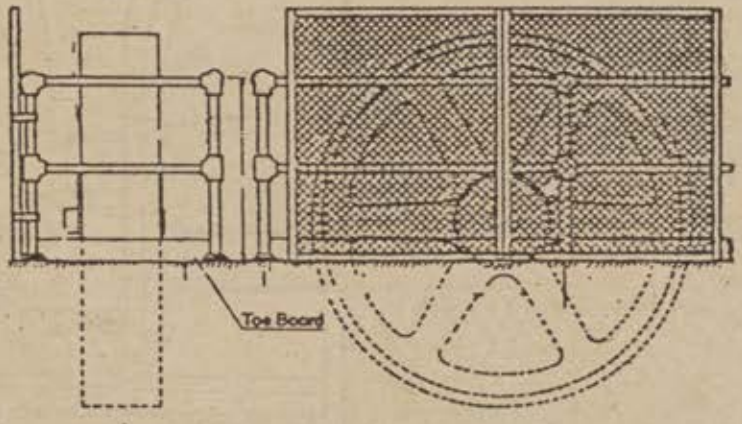


Coupling.

Guarding Rotating Motion by Barrier Guards

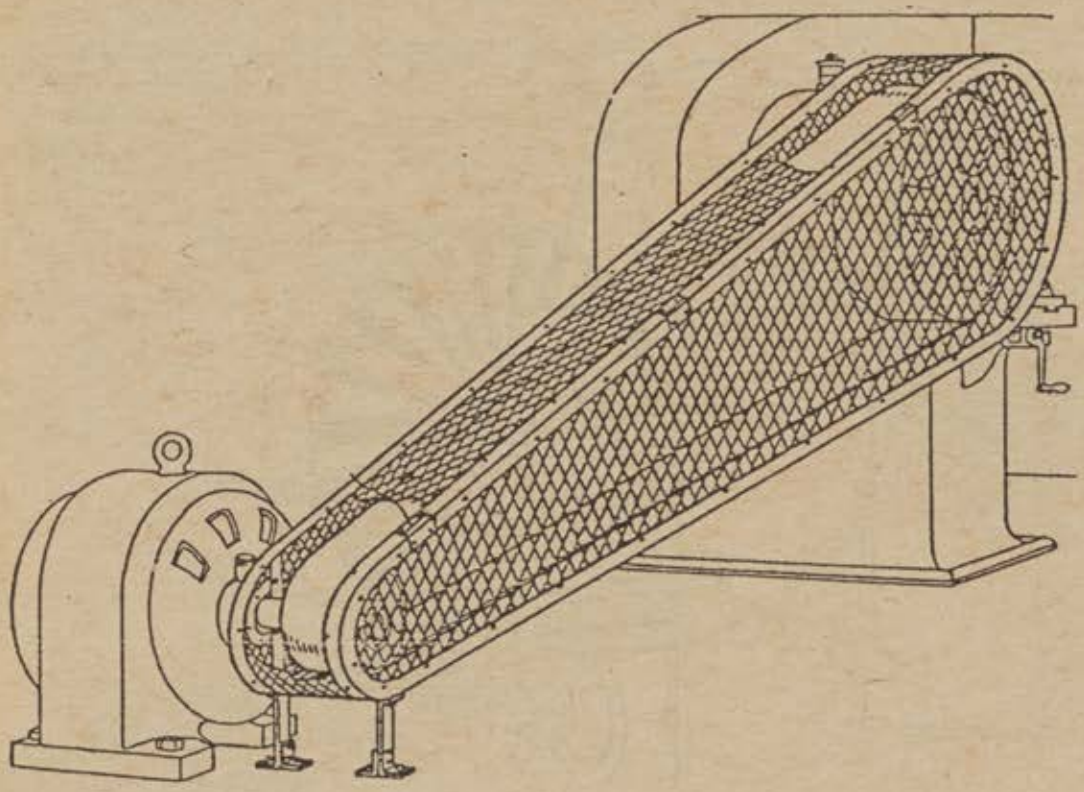


Winder drum end guard—guard provides a stationary object to grasp if operator should slip while changing paper.

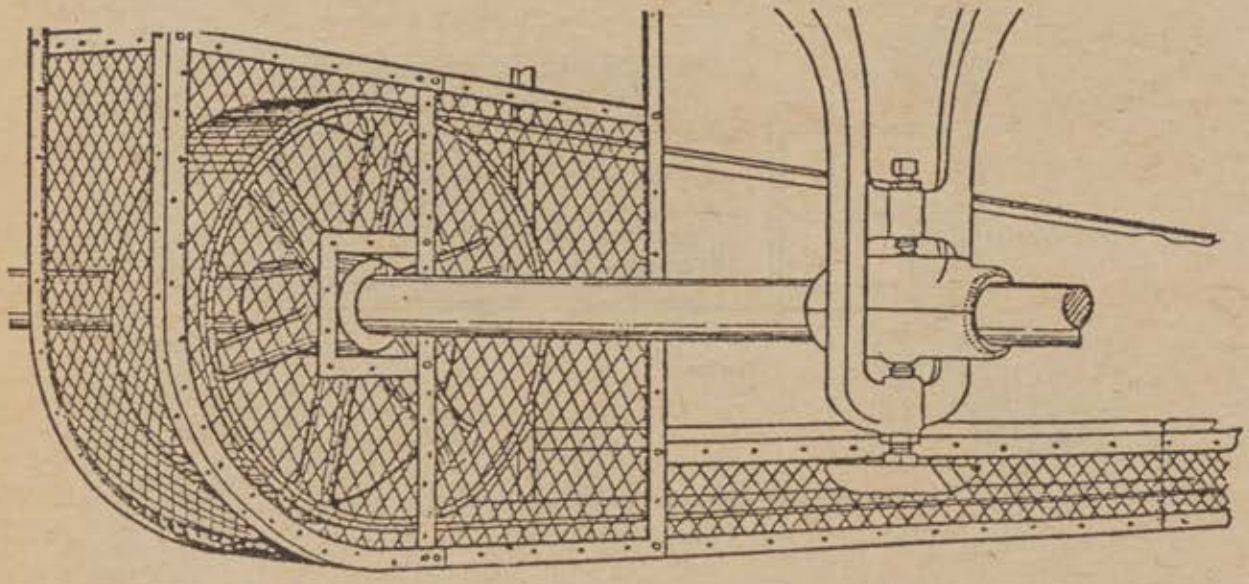


Flywheel guard—barrier for flywheel and flywheel pit guard.

Guarding Rotating and Transverse Motions by Enclosure Guards

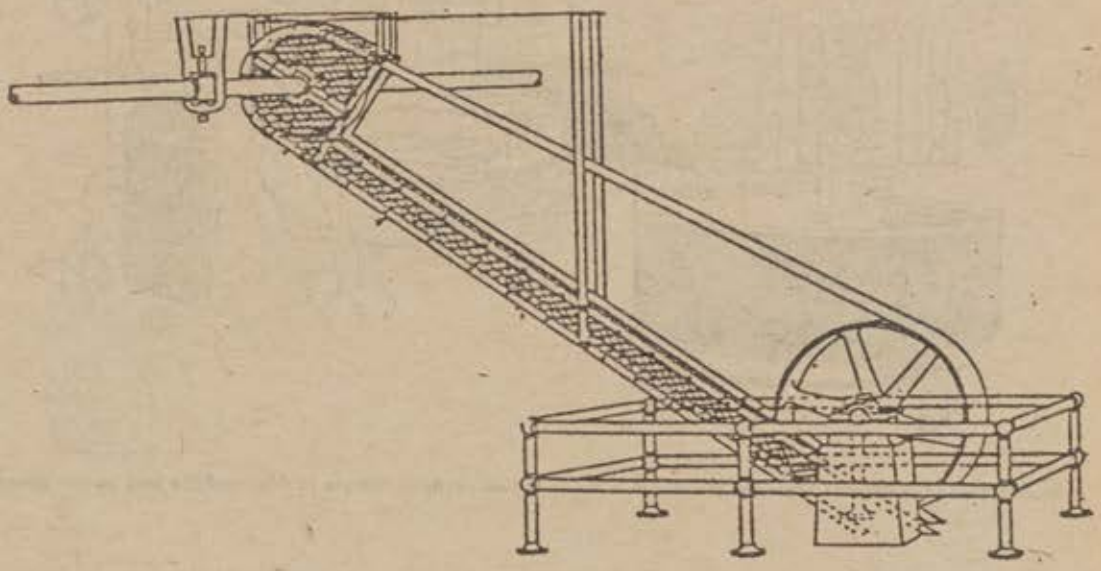


Pulleys with inclined belt.

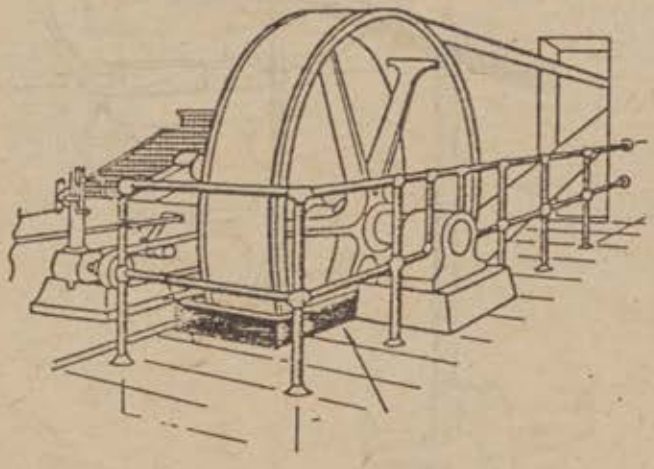


Overhead horizontal belt and pulley.

Guarding Rotating and Transverse Motions by Barrier Guards



Pulleys and inclined belt.

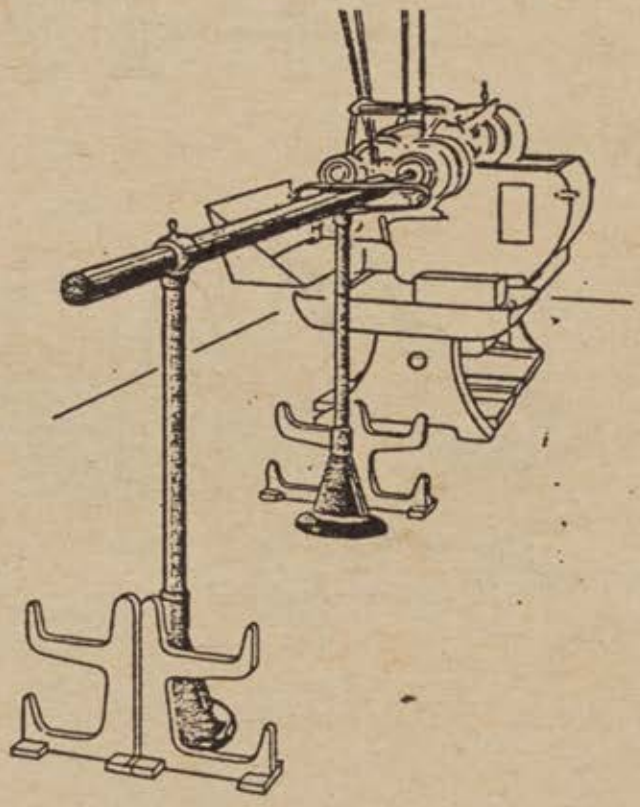


Flywheel with horizontal belt.

Guarding Rotating Machines or Machine Parts With Barrier Guards

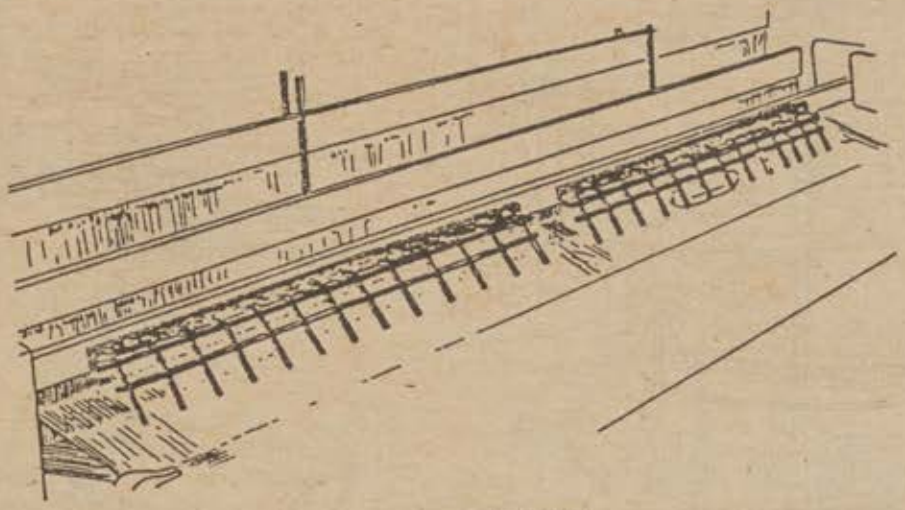


Barrier guard for vertical boring mill—guard is made in two sections, hinges to the machine and easily opened.

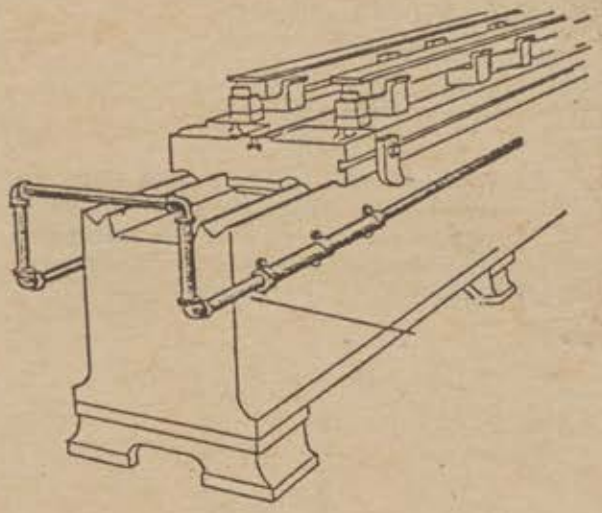


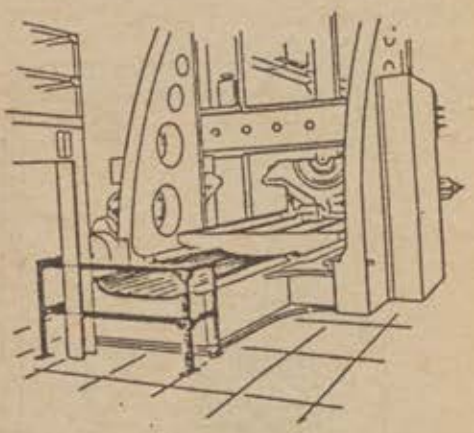
Revolving bar stock guard.

Guarding Reciprocating Motion of Machine Parts by Barrier Guard



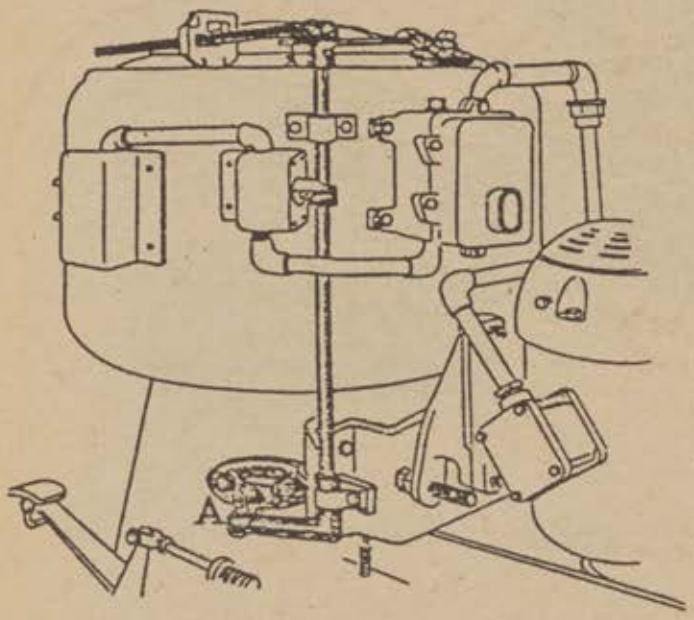
Shuttle guard on loom.



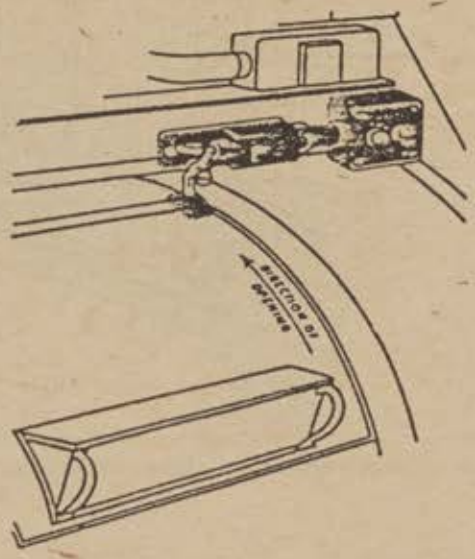


Planer table guards.

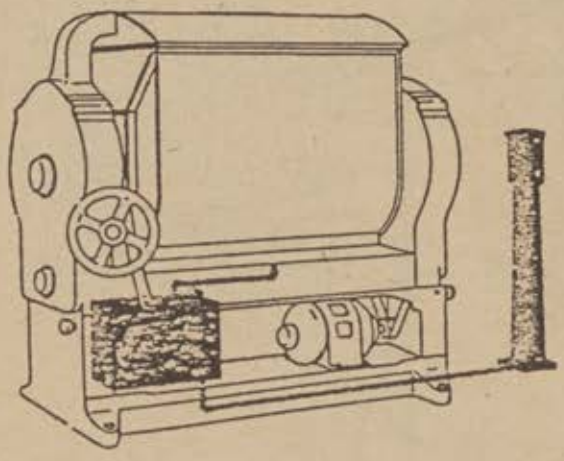
Guarding Rotating Motion of Machine Parts by Interlocks



Interlocking extractor cover guard. The cover is mechanically interlocked with the spindle so that the cover cannot be removed until the spindle is at rest.

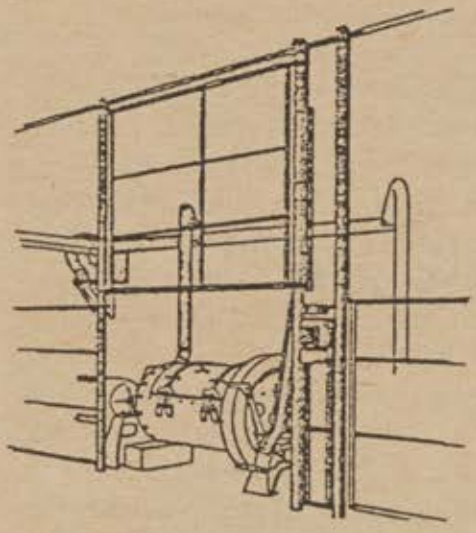


Electrical interlock on washing machine. When door is opened the circuit to motor drive is broken, thus stopping the machine.

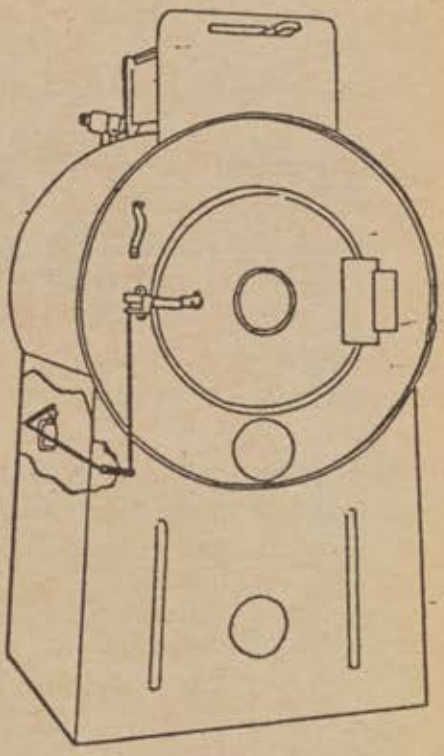


Electrical interlock for tilting dough mixer. The electric circuit is closed only when the barrel is in upright position. Mixer can be operated in tilted position by constant pressure applied to a second switch.

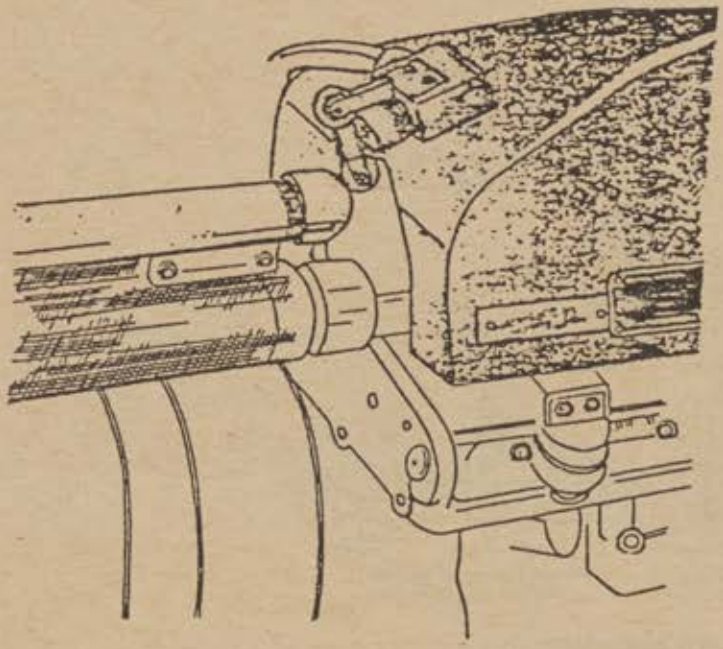
Guarding Rotating Motion of Machine Parts by Interlocks



Guard for rattler or tanning drum. Angle iron gate frame is electrically interlocked so that the rattler cannot be operated unless the gate is closed.



Guard for tumbler barrel. When door is opened the circuit is broken and the revolving cylinder stops.

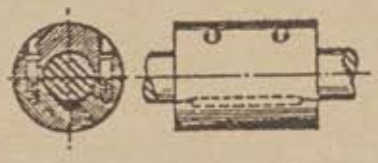


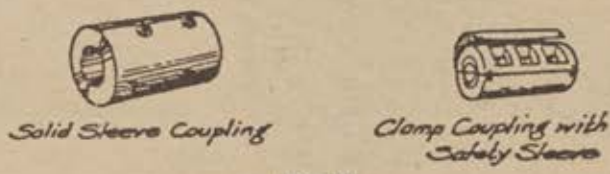
Guard for bar support of screw machine. When bar support or spindle cover is removed to open position, power to machine is cut off.

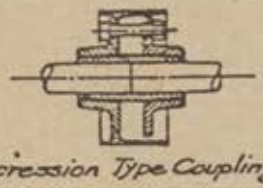
Elimination of Rotating Motion Hazard by Means Other Than Guarding

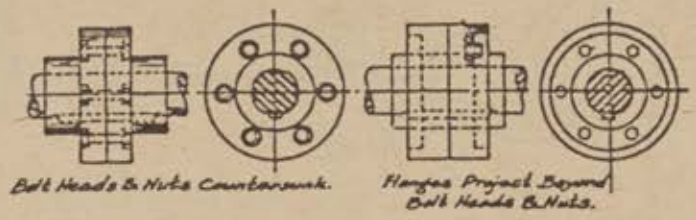


Safety set screws.









Safety shaft couplings.

GUARDING IN-RUNNING NIP POINTS

In-running nip points may exist under two broad classes of conditions, namely:

1. Those purposely created to do useful work.

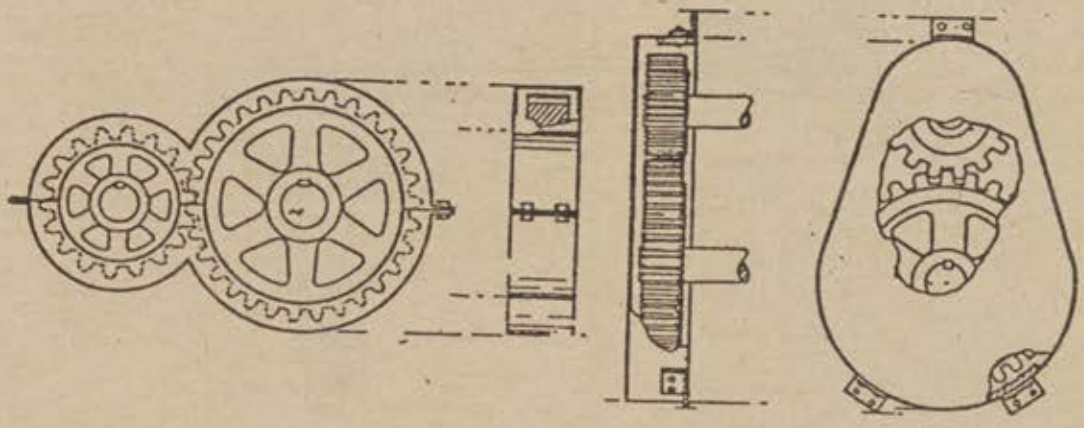
2. Those which are incidental to the transmission of power or the application of motion, the nip point itself doing no useful work.

Nip points that are purposely created to do useful work would include situations such as calender rolls used for finishing paper, rolls used for mixing ink or rubber, and rolling mills used for reducing the thickness of or changing the shape of metals.

Nip points created incidental to the transmission of power would include the nip point of a belt and pulley, the meshing of gears, or the take-off point of a belt conveyor. Nip points created incidental to the application of motion would include the nip or pinch point of the moving bed of a metal planer with the frame of the machine or an adjacent fixed object.

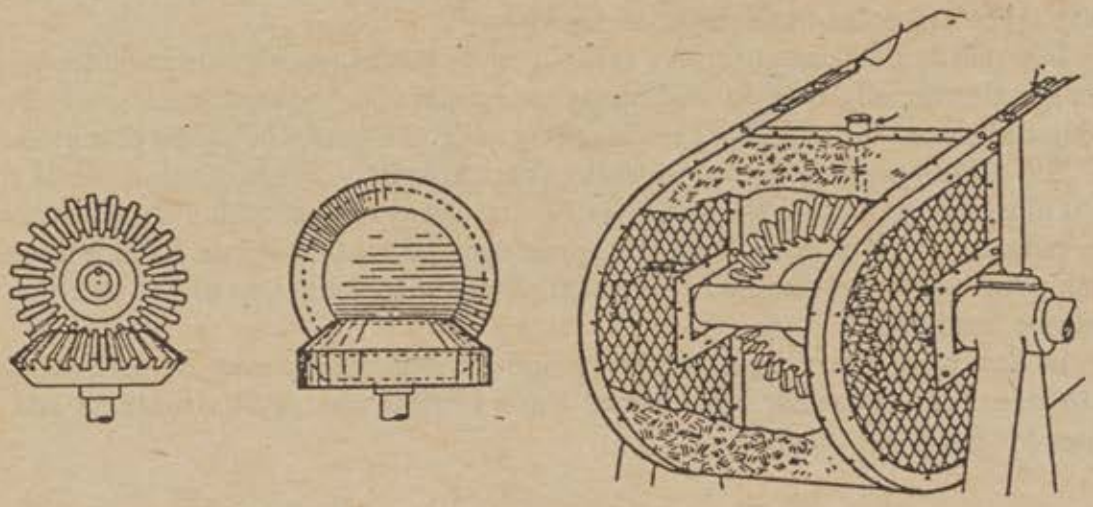
In any case, guarding is necessary and various means may be used to provide protection. The following illustrations show typical nip point situations and techniques for guarding them.

Guarding In-Running Nip Points by Enclosure Guards

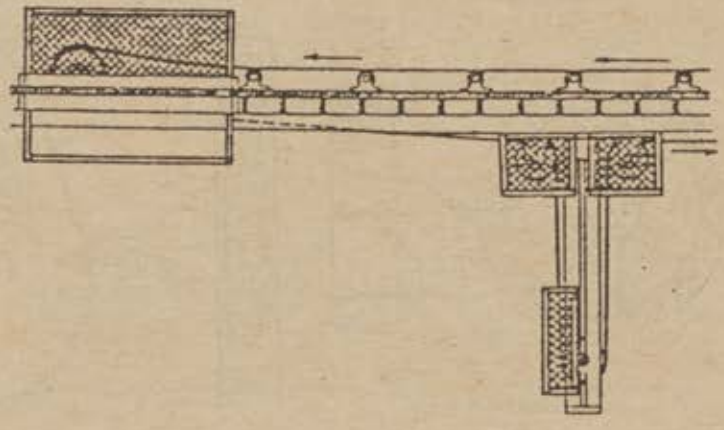


Spur gear guards.

Guarding In-Running Nip Points by Enclosure Guards

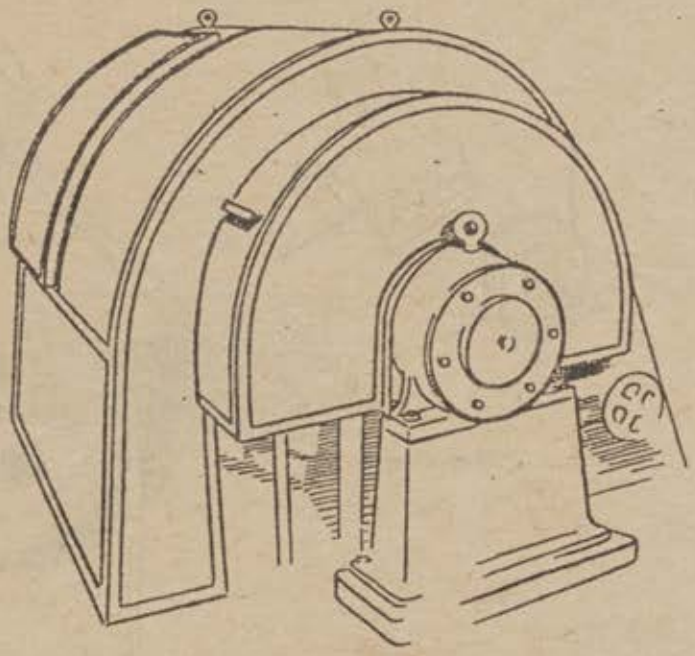


Bevel gear guards.

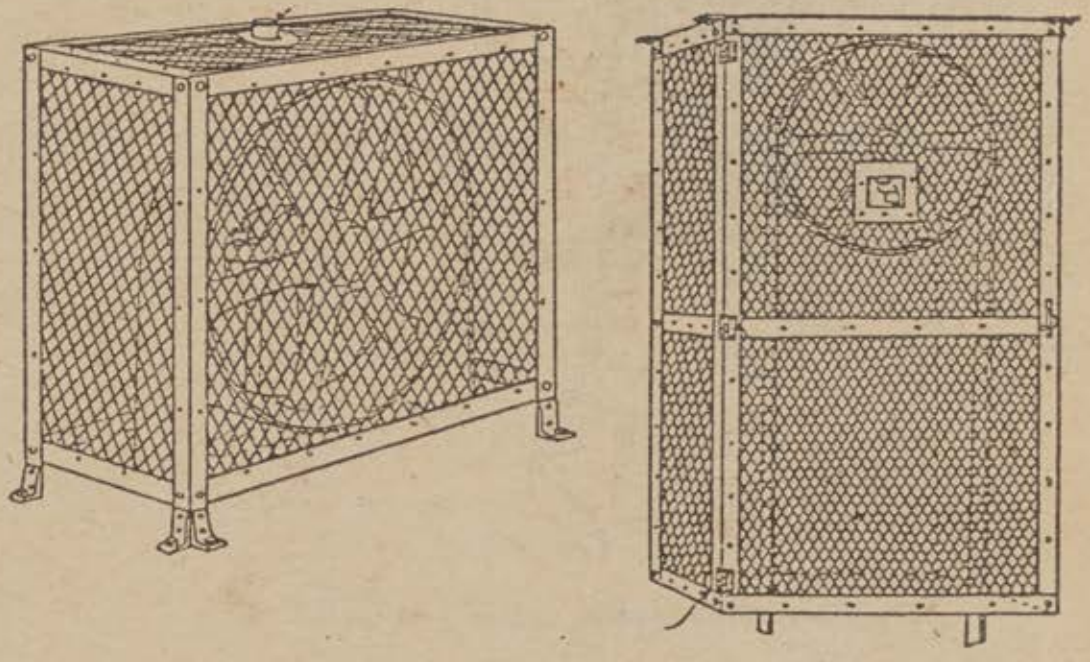


Elevated conveyor belt, pulleys, and belt tightener guard.

Guarding In-Running Nip Points by Enclosure Guards

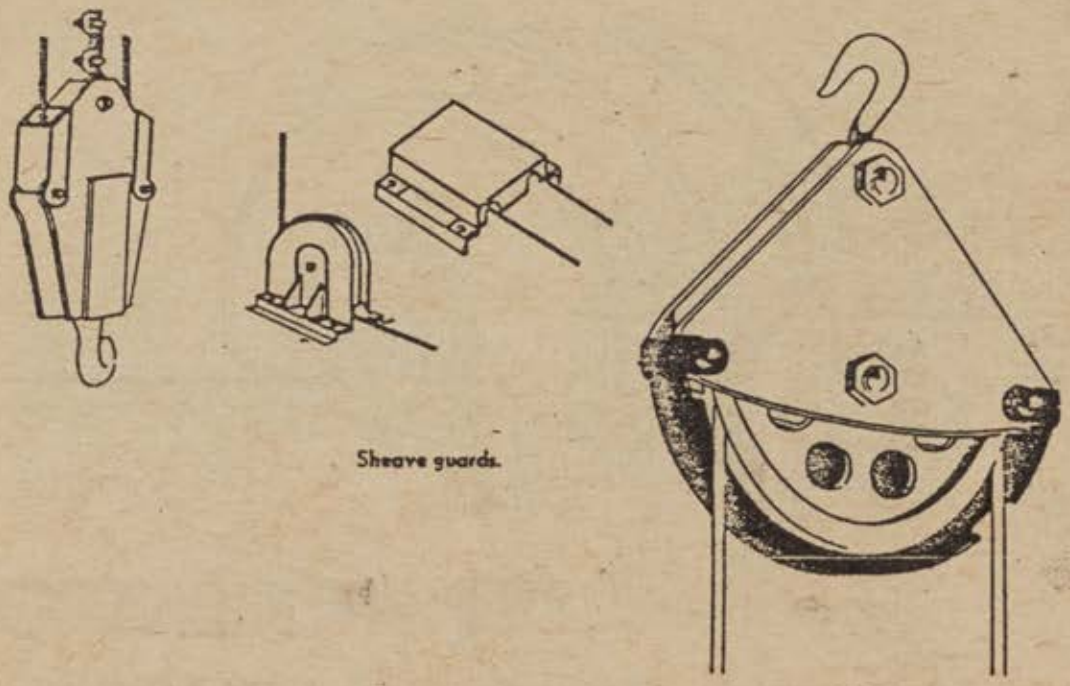


Calender stock drive guard.

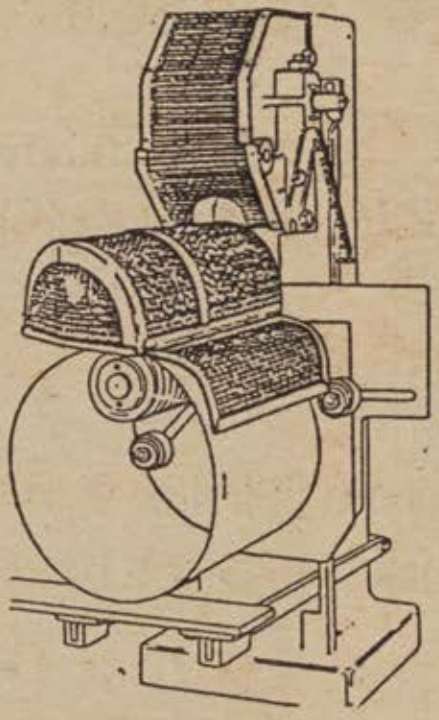


Belt and pulley guards.

Guarding In-Running Nip Points by Enclosure Guards

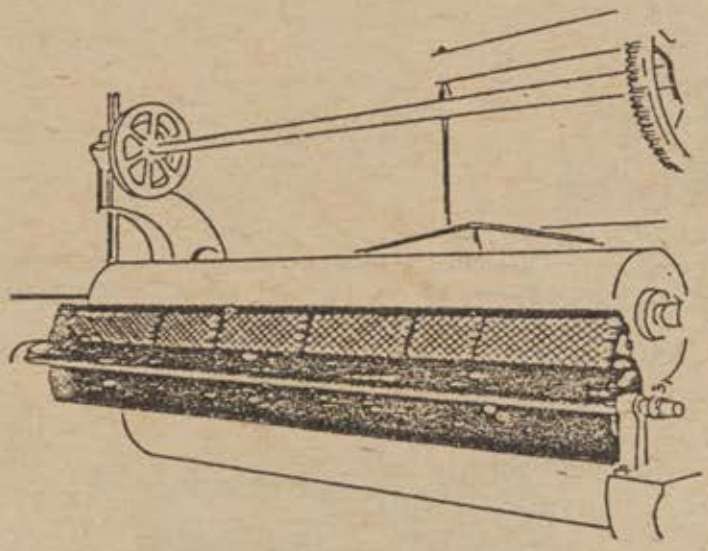


Sheave guards.



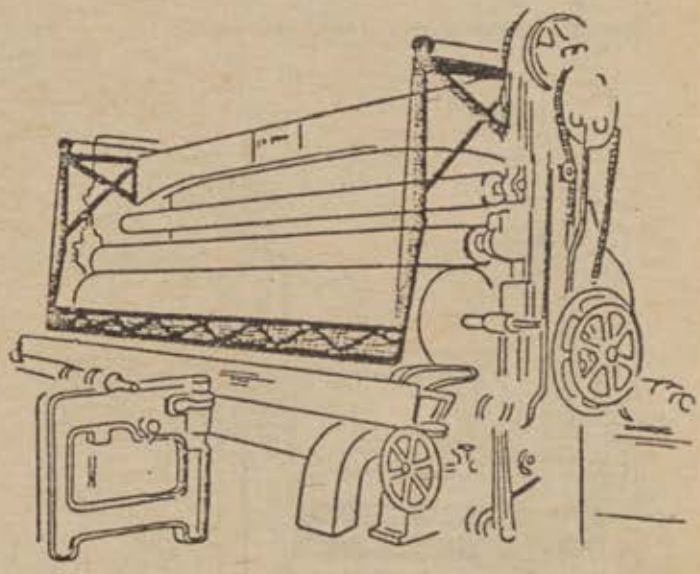
Dies of drum-corrugating machine.

Guarding In-Running Nip Points by Barrier Guards



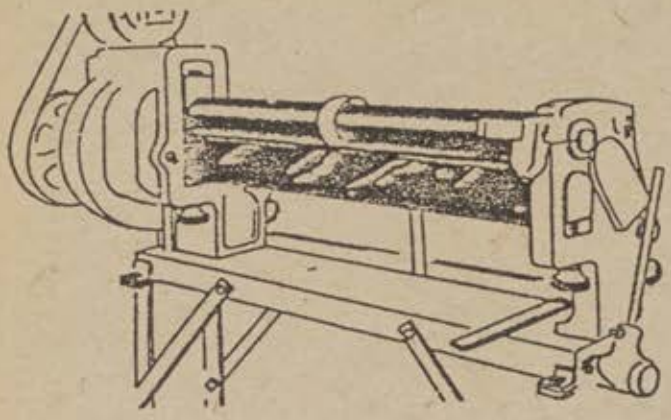
Guard is hung so that it can be swung down and out of the way when roll is being started or removed.

Guard is counterweighted and swung up out of the way when roll is being started or removed.

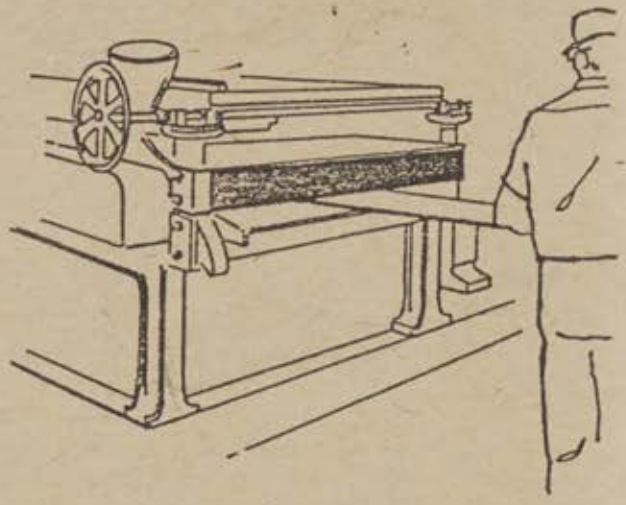


PAPER ROLL WINDER GUARDS

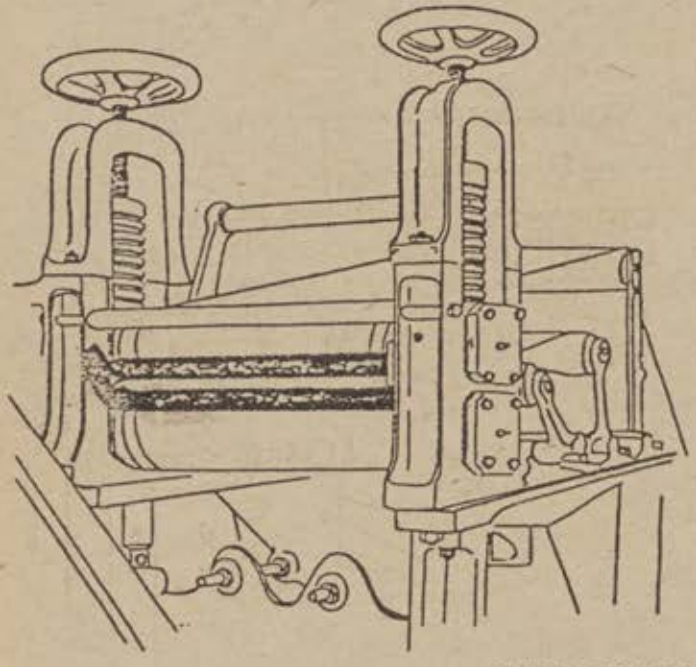
Guarding In-Running Nip Points by Barrier Guards



Upper roll covered with stationary cylindrical guard. Lower roll has an apron guard. Opening between guards is less than 3/8 inch.



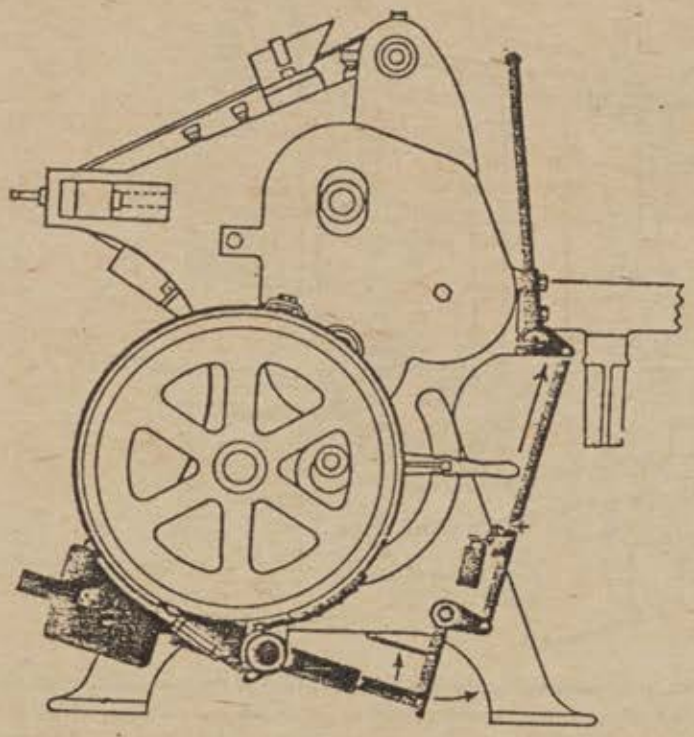
Barrier guard protecting rolls of leveling machine.



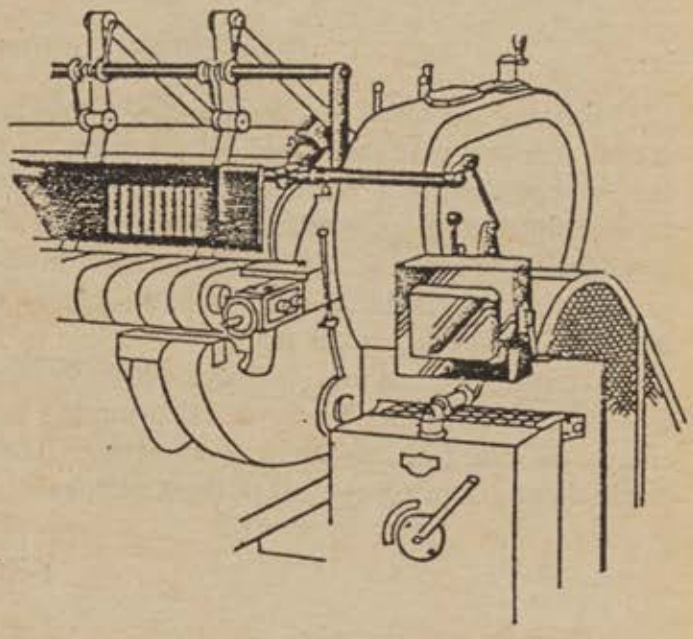
Barrier guard for rolls on paper embossing machine.

METAL ROLL GUARDS

Guarding-In Running Nip Points by Interlocking Device

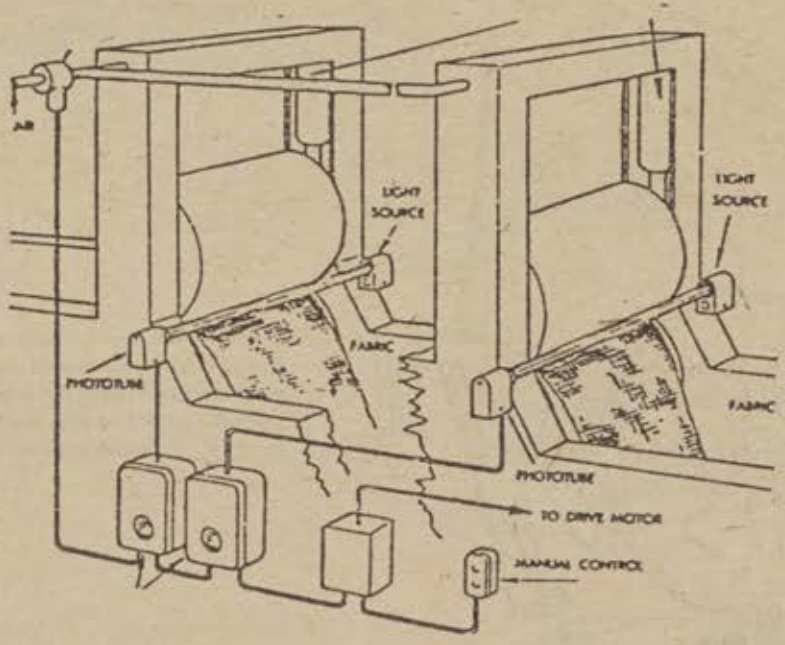


Dough brake guard. The pressure of the operator's body against horizontal release across front of machine simultaneously breaks electric current at contact switch and trips weight operating brake on flywheel, thus quickly stopping machine.



Flatwork ironer guard. If operator's hand strikes hinged barrier, the contact switch opens circuit and stops machine.

Guarding In-Running Nip Points by Interlocking Device



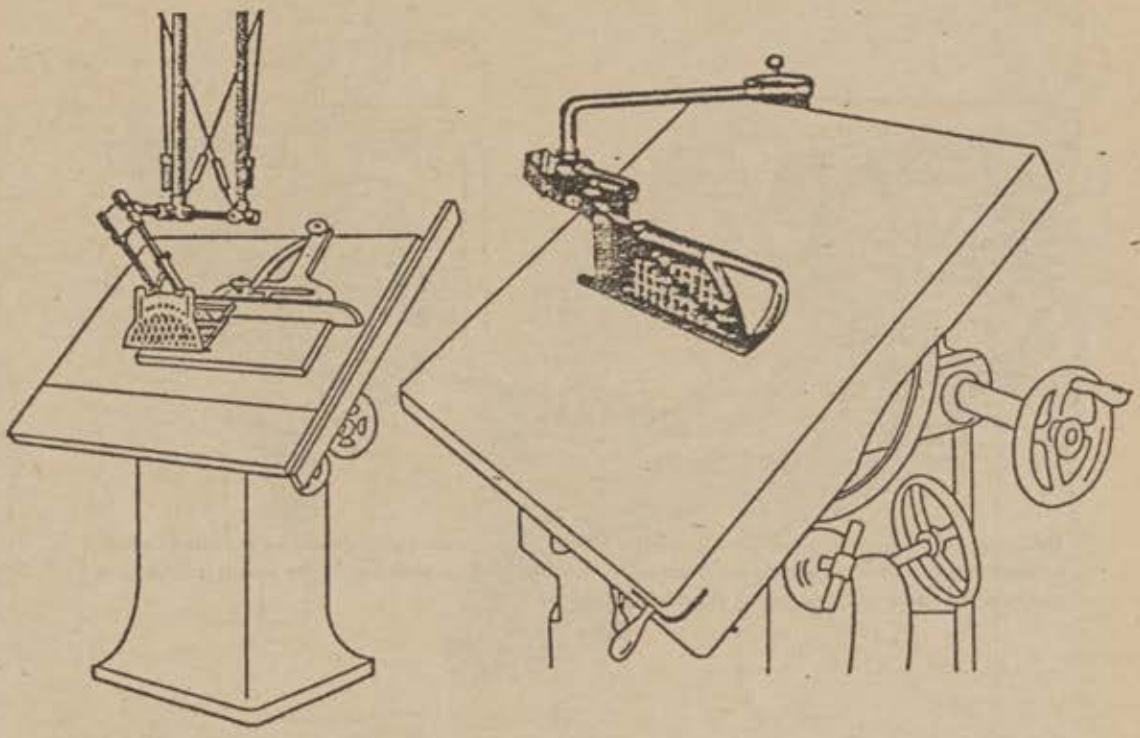
Textile finishing machine. The photoelectric control beam is projected across the 12-foot width of the pressure rolls at the nip where the two rolls meet. Any part of an operator's body or any other object coming within the danger area of the nip will break the control beam. If the beam is broken, photoelectric relay action immediately stops the drive motor and at the same time operates the air cylinder solenoid valve, releasing the pressure and opening the rolls.

GUARDING CUTTING ACTIONS

Cutting action is involved in the whole range of machine tools used for cutting metal, also for machines used for working on wood. The characteristic of a machine tool is that the metal removed is in the form of chips. This characteristic also applies to machines used for cutting wood, although woodworking machines are not referred to as machine tools. Many machines used in the food, plastic, paper, or textile industries, as well as other industries, also employ cutting action. The hazard lies at the point where cutting takes place.

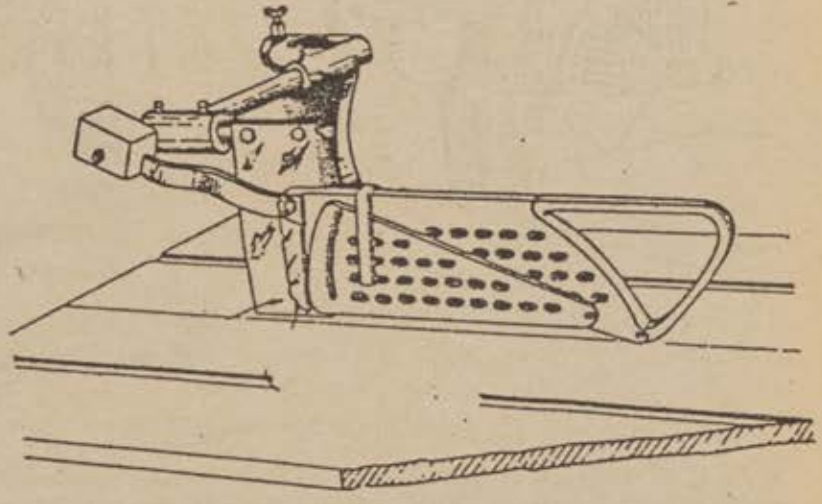
Various forms of motion may be involved in cutting action, but the kind of motion is not the determining factor in selecting the best guarding method. In many cases, a choice of guarding methods is available. The following illustrations show various methods of guarding typical cutting actions.

Guarding Cutting Actions by Enclosure Guards



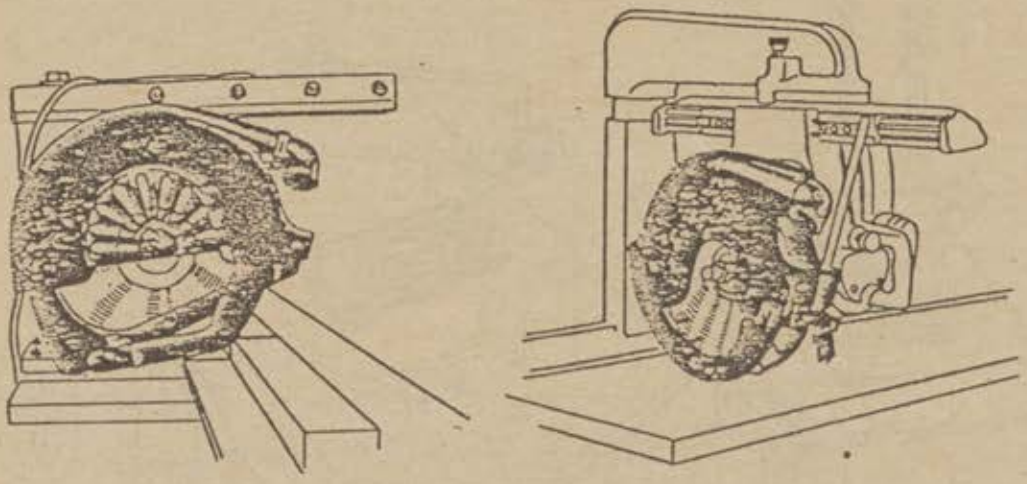
Tilting table saw guard.

Circular saws should be provided with a hood that covers the saw at all times to the depth of the teeth. Hood should adjust itself automatically to thickness of, and remain in contact with, material being cut. A spreader and antikickback device should be provided. The exposed part of the saw underneath the table should be guarded.

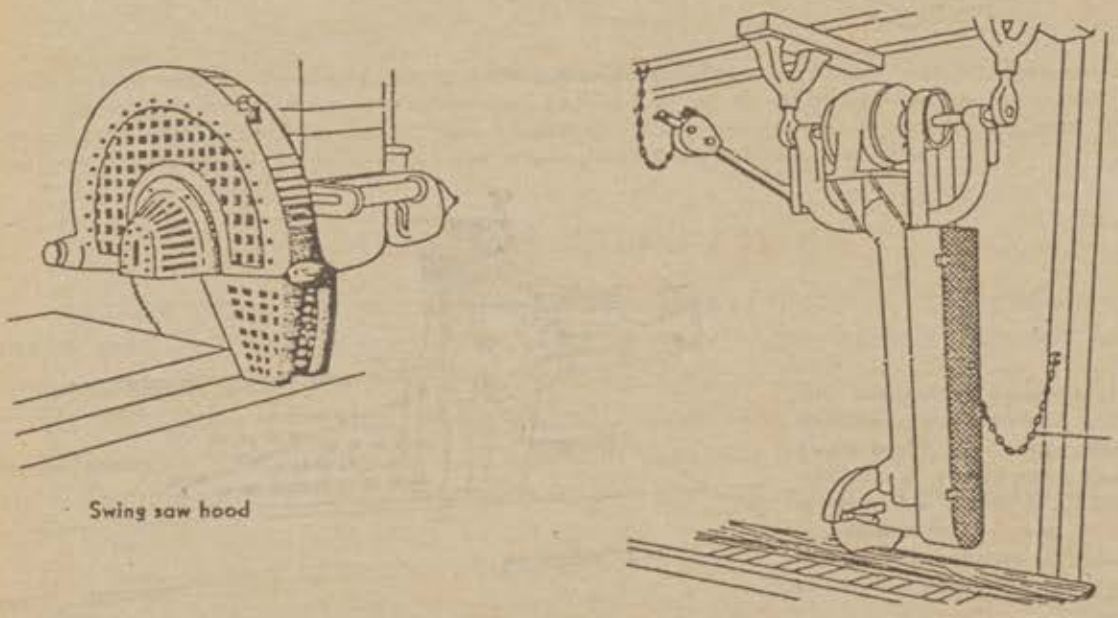


Rip saw guard.

Guarding Cutting Actions by Enclosure Guards



Radial saw. In addition to hood enclosing the blade, an adjustable stop should be provided to limit forward travel and head should automatically return to starting position. When used for ripping, a spreader and antikickback device should be provided.



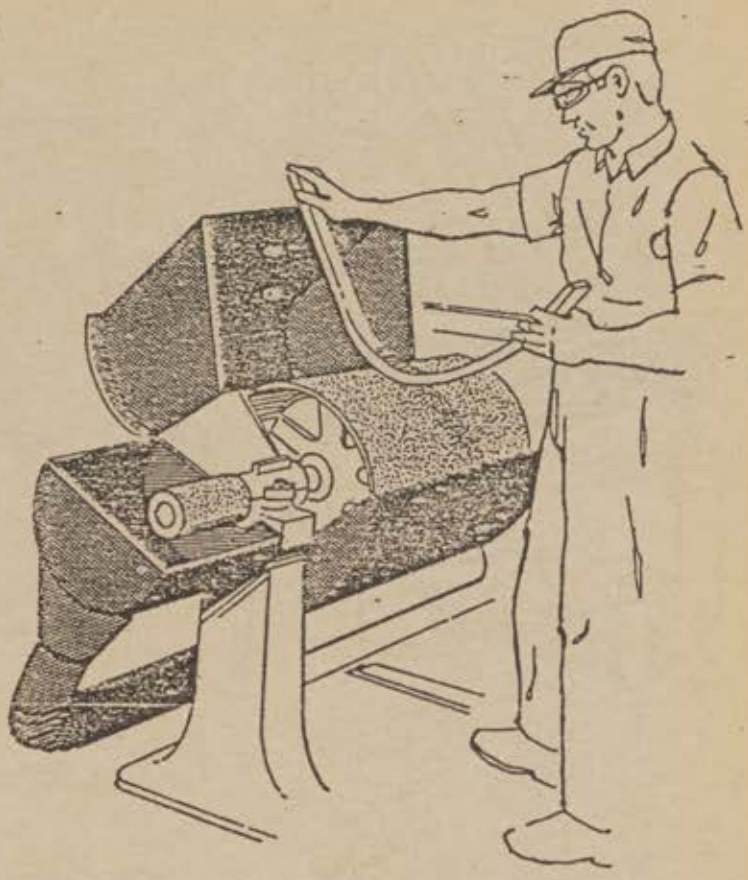
Swing saw hood

Swing saw. In addition to the hood enclosing the blade, the swing saw should be provided with a limit chain or other device to limit forward travel and a device to automatically return the head to starting position. Hood should enclose saw.

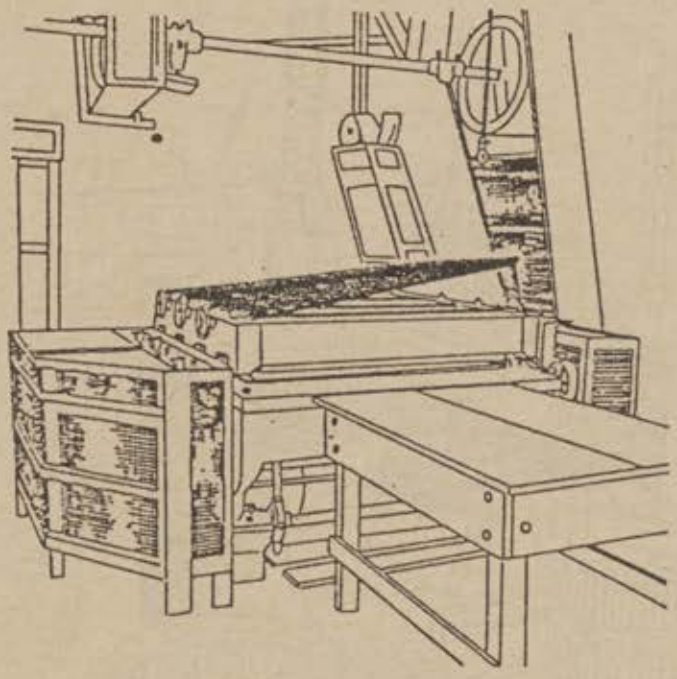
Guarding Cutting Actions by Enclosure Guards



Disc sander.



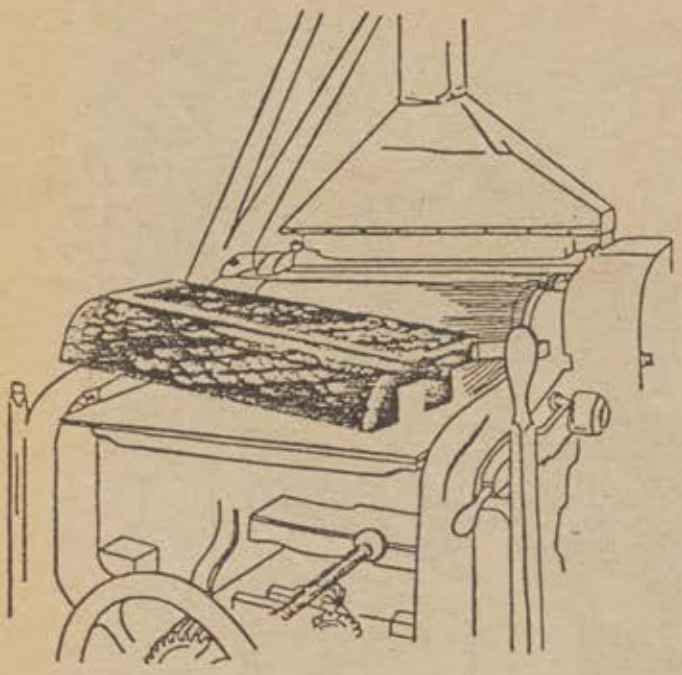
Drum sander.



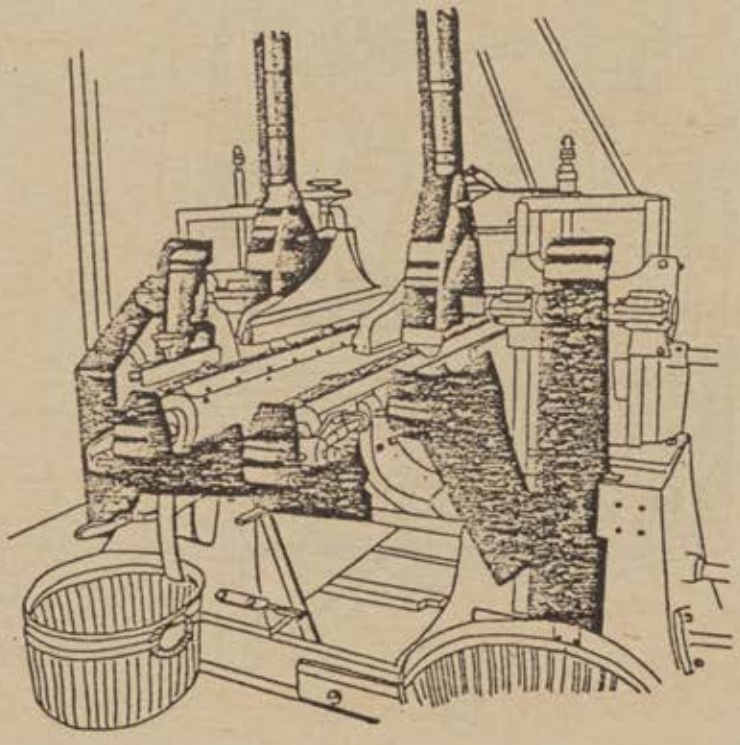
Roll feed sander.

Exposed parts of disc, drum or roll feed sanders should be guarded except that portion where the material comes in contact with the abrasive. Feed rolls in front of sander should also be guarded. Guards serve as dust collectors.

Guarding Cutting Actions by Enclosure Guards

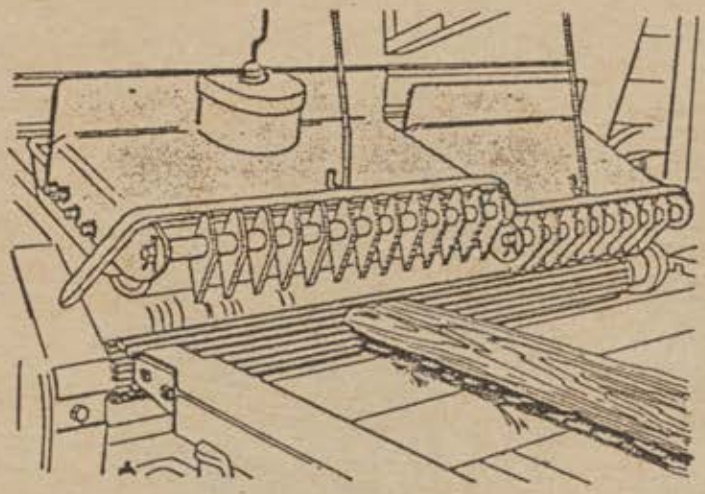


Planer. Guard for feed rolls removed showing substantial construction.

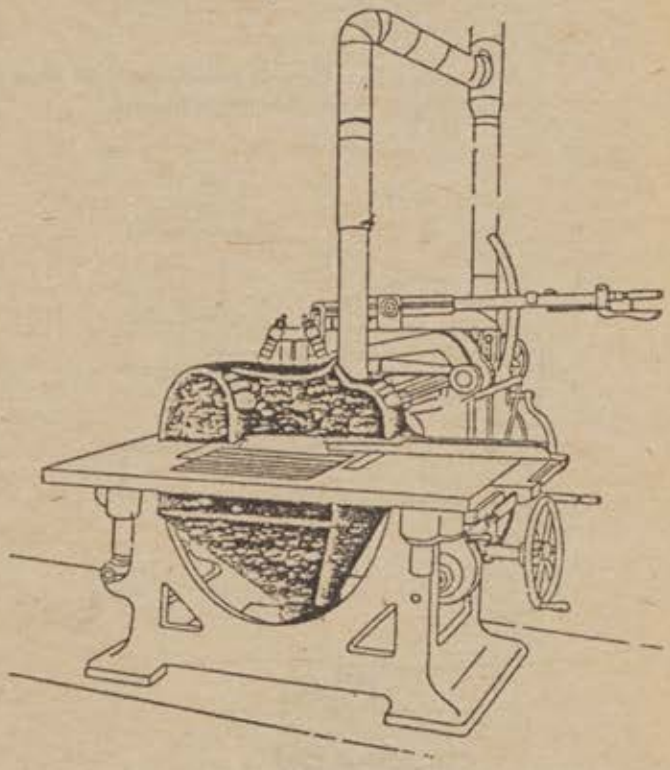


Double end tenoner.

Guarding Cutting Actions With Enclosure Guards

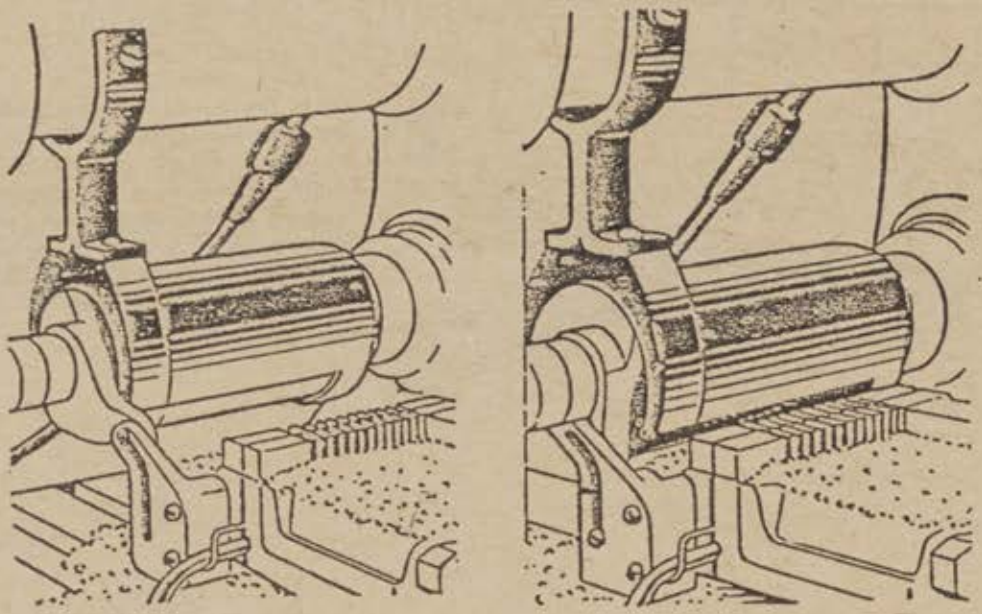


Edger. The saws of the edger should be enclosed and there should be pressure rolls on both the feed and take-off sides. Nonkickback teeth should be provided on at least the feed side of the saws. All belts, pulleys, and gears should be enclosed.

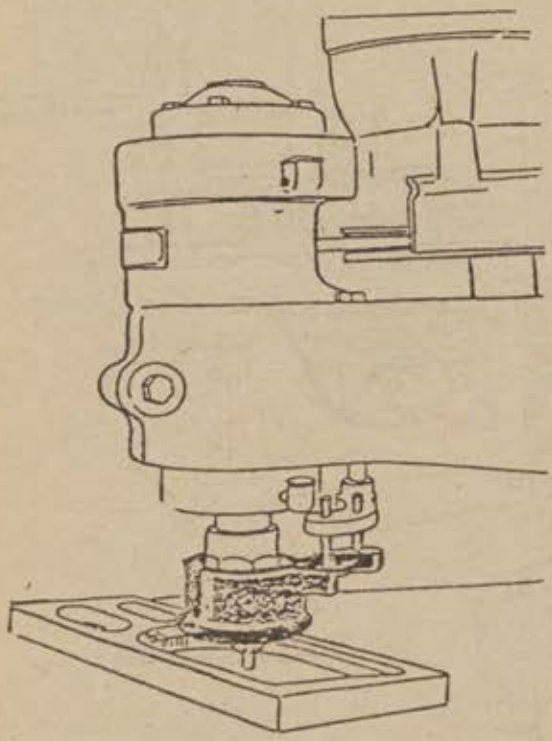


Self feed rip saw. Saw and feed rolls should be completely enclosed.

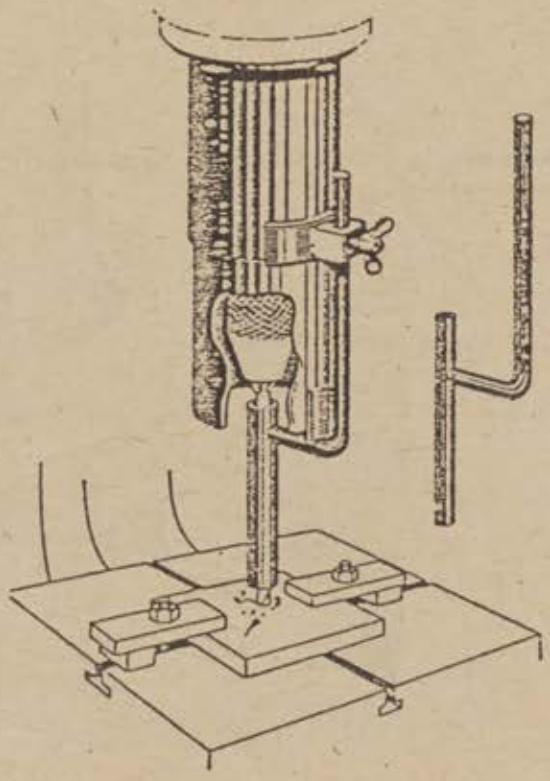
Guarding Cutting Actions by Enclosure Guards



Milling machines. Cutter is entirely enclosed when the table is withdrawn and the guard opens automatically as the table moves forward.

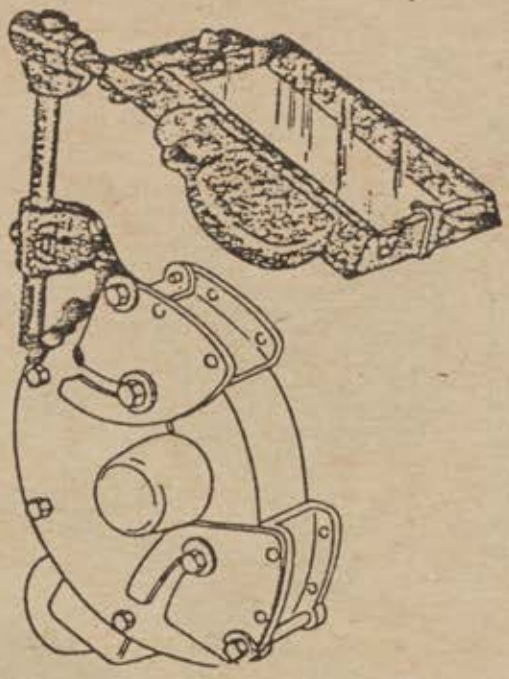


Router. Enclosure covers top and sides of router.



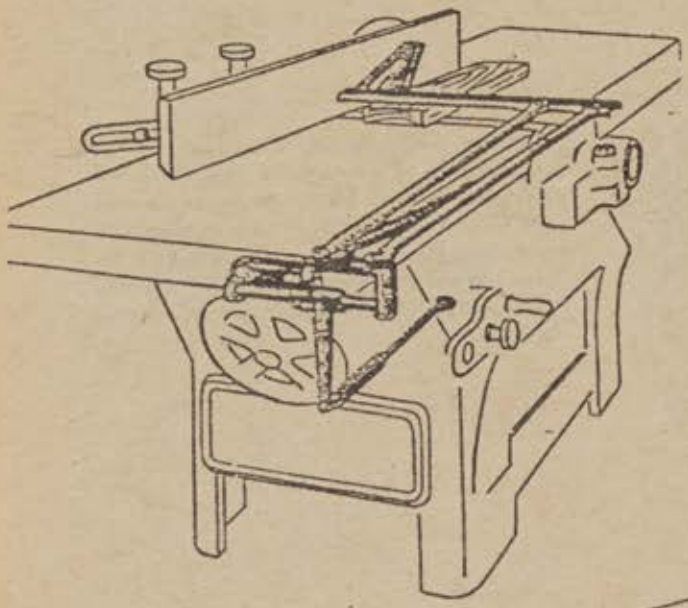
Drill. Enclosure covers spindle and drill.

Guarding Cutting Actions by Enclosure Guards

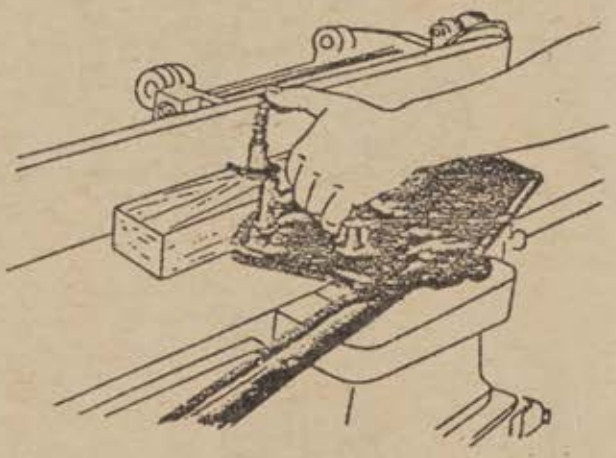


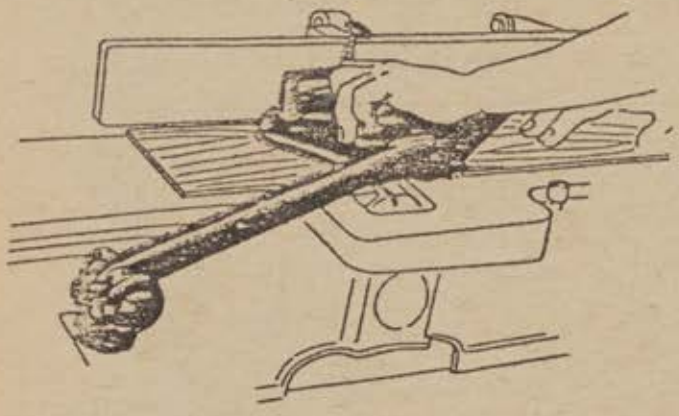
Abrasive wheel guard. Guard should be stong enough to withstand the shock of a bunting wheel and be adjustable to the wear of the wheel; tempered or laminated glass with protective glass on the underside should be used. Work rests should be kept adjusted close to the wheel with a maximum distance of 1/8 inch.

Guarding Cutting Actions by Barrier Guards



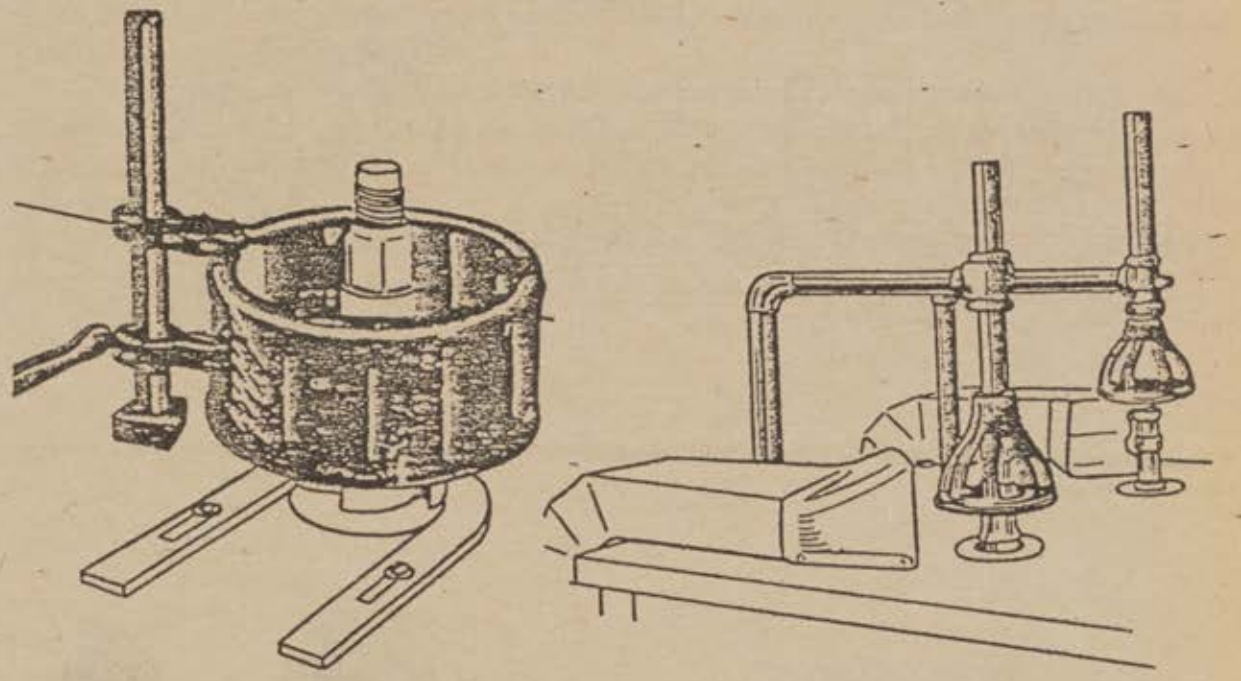
Jointer guards should automatically adjust themselves to cover all sections of the head on the working side of the fence or gage and should remain in contact with the material at all times. The section of the cutting head back of the fence or gage should also be guarded.



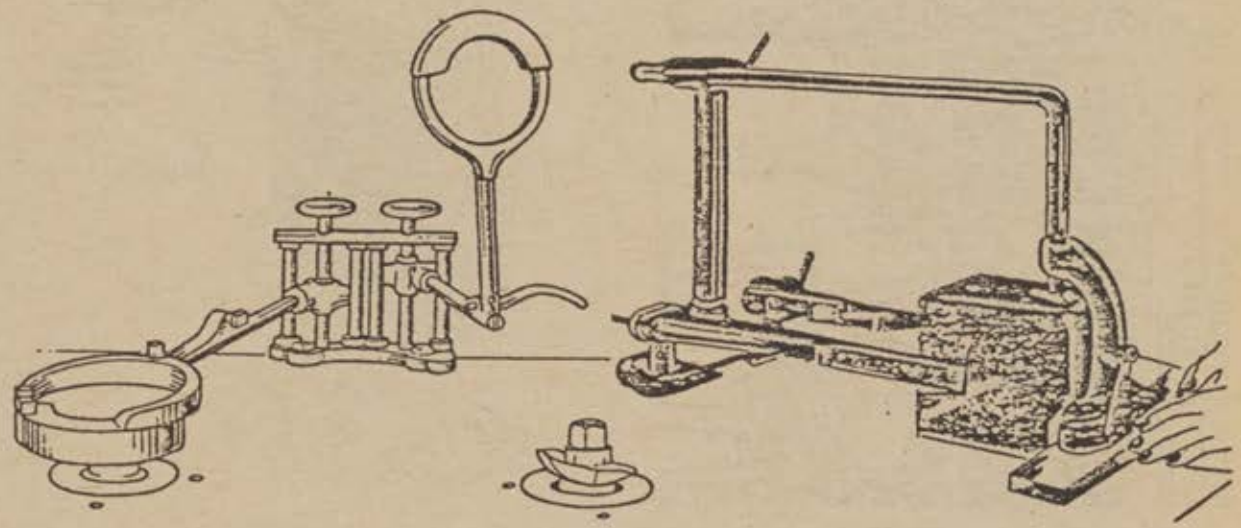


JOINTER GUARDS

Guarding Cutting Actions by Barrier Guards



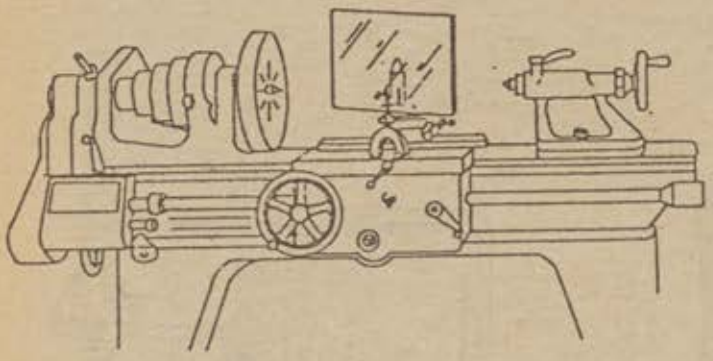
The cutting head of each wood shaper should be enclosed by an adjustable guard so designed as to keep the operator's hand away from the cutting edge. Patterns or jigs for holding stock while shaping are also desirable.



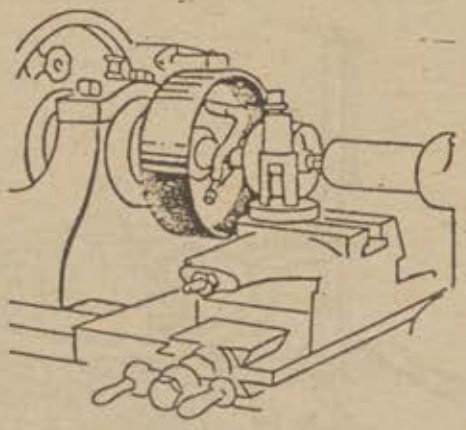
SHAPER GUARDS

Guarding Cutting Actions by Barrier Guards

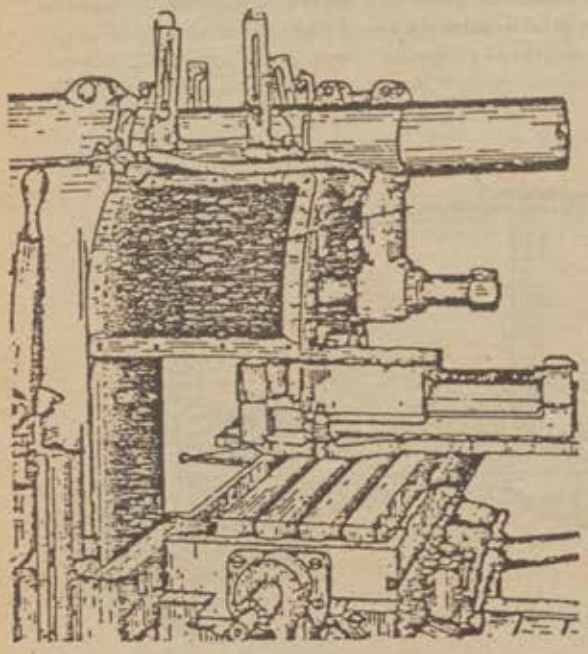
LATHES



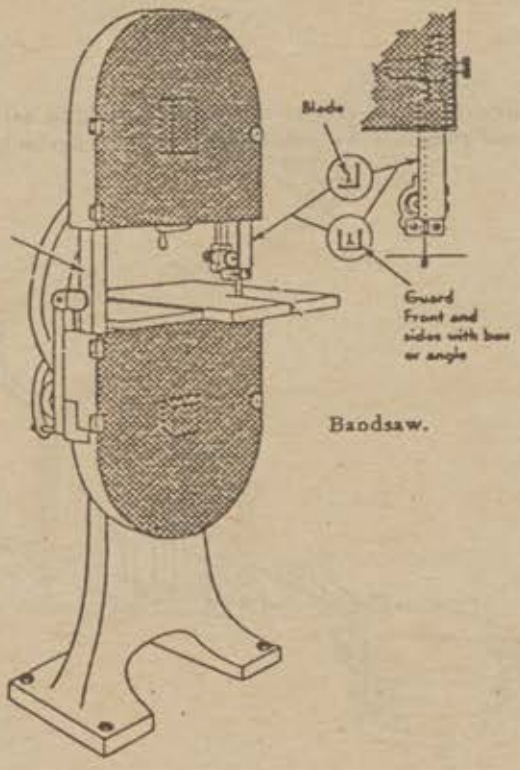
A clear plastic shield held in place by a magnet will protect against flying particles.



A metal band around the face plate prevents contact with the lathe dog.



Milling machine. Mesh guard over cutter to protect against contact and flying particles.



Bandsaw.

Band or band resaw wheels should be completely enclosed and all portions of the blade should be guarded, except that portion between the guide rolls and the table.

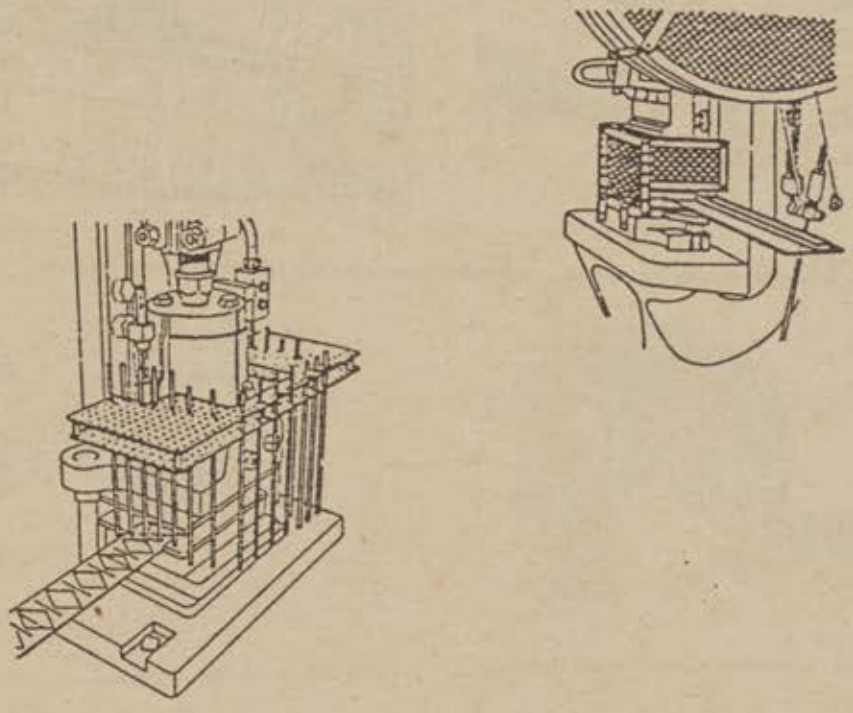
GUARDING PUNCHING, BENDING, AND SHEARING ACTIONS

Punching, bending, and shearing actions differ from cutting actions in that material is not removed in the form of chips. This class of action is used primarily to form or shape metals, but may be used on materials other than metal, as for example, plastics, fabrics, and papers.

Punching, bending, and shearing actions are particularly hazardous with respect to the severity of injury inflicted, many such injuries resulting in amputations or other permanent disability. As in the case of cutting actions, the hazard is at the point-of-operation.

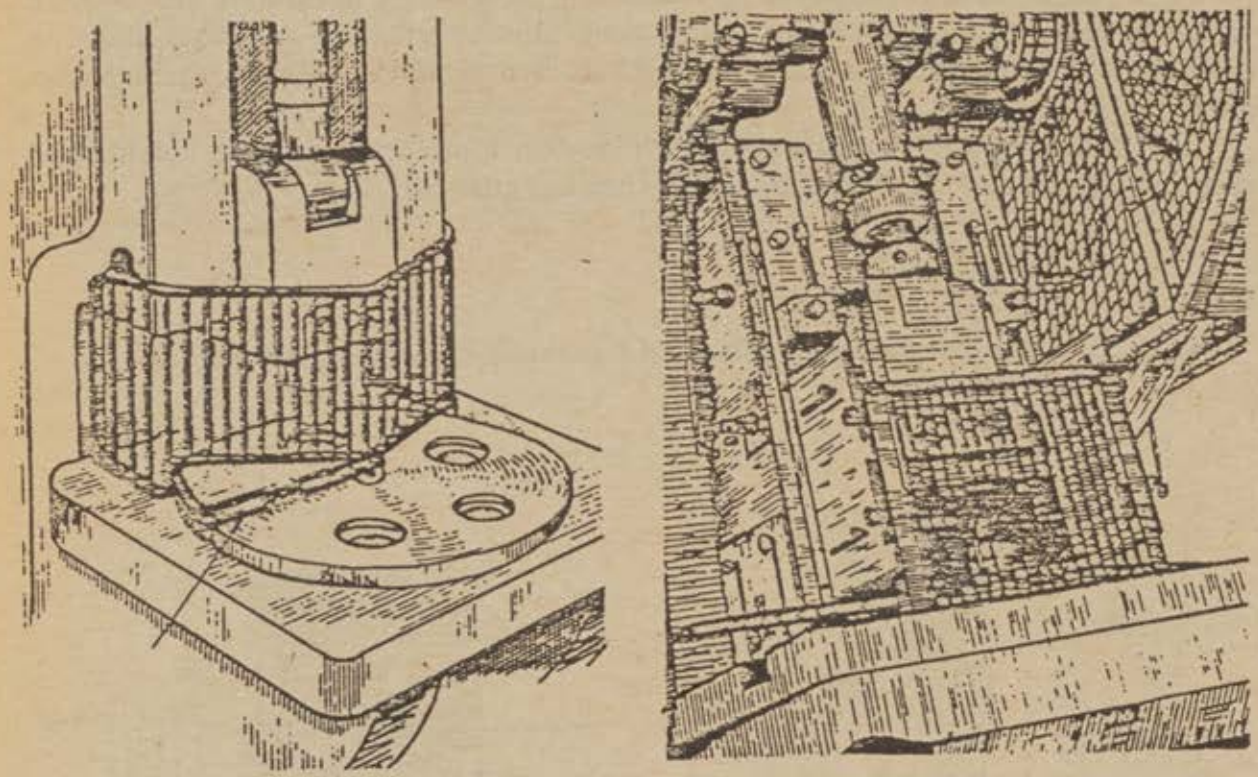
The following are illustrations of machines which perform punching, bending, or shearing actions and techniques by which they are guarded.

Guarding Punching or Bending Actions by Enclosure Guards



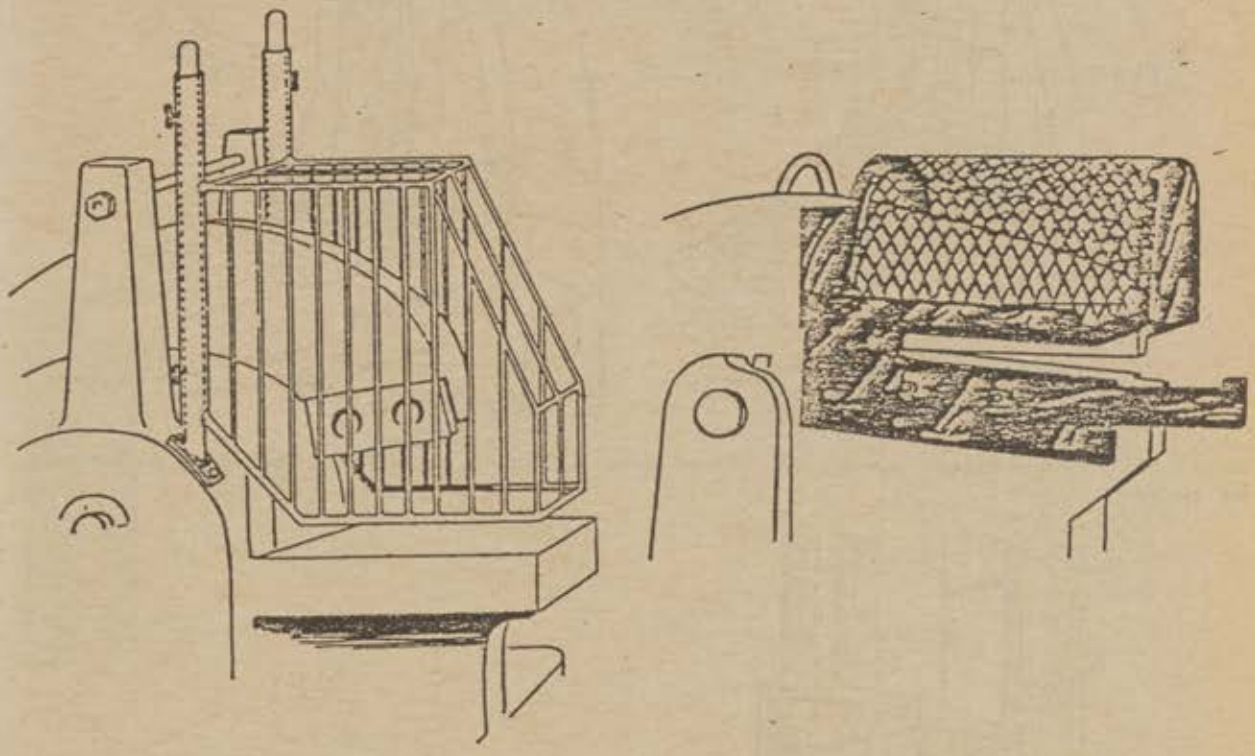
Enclosure guards for punching or forming presses for use with strip feeding.

Guarding Punching or Bending Actions by Enclosure Guards

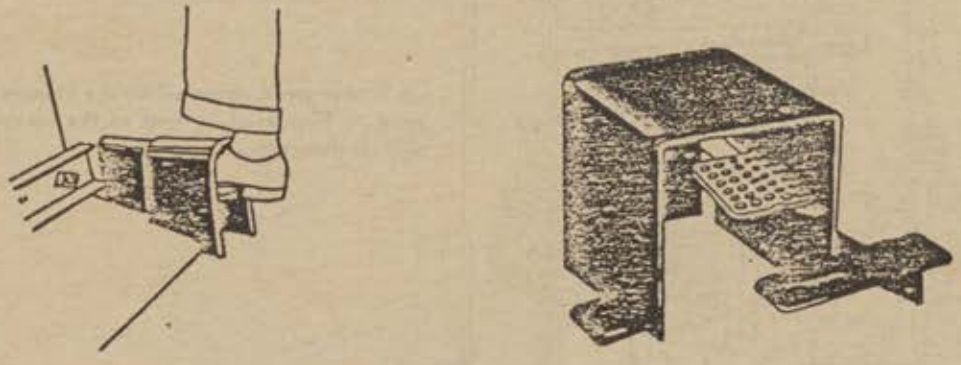


Enclosure guards for punching or forming presses for use with dial or strip feeding.

Guarding Shearing Action by Enclosure Guards

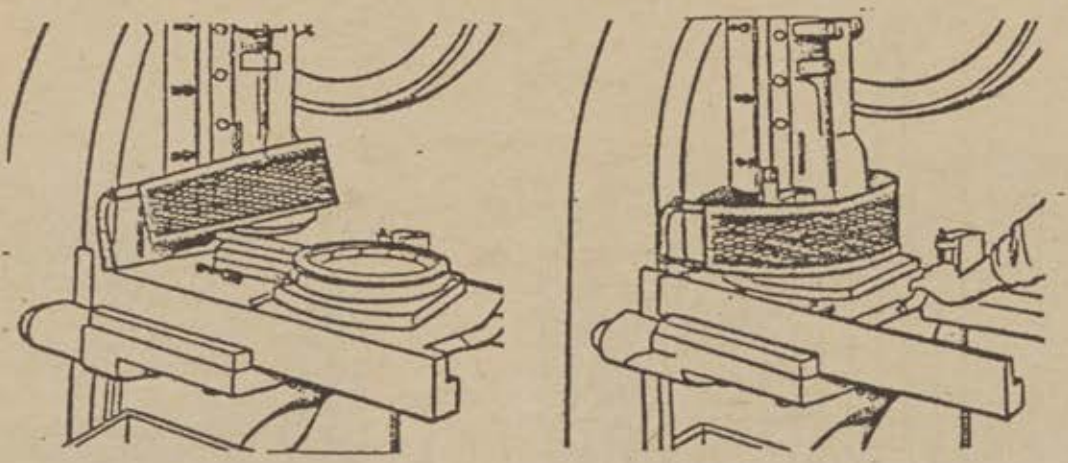


Enclosure guards for alligator shears.

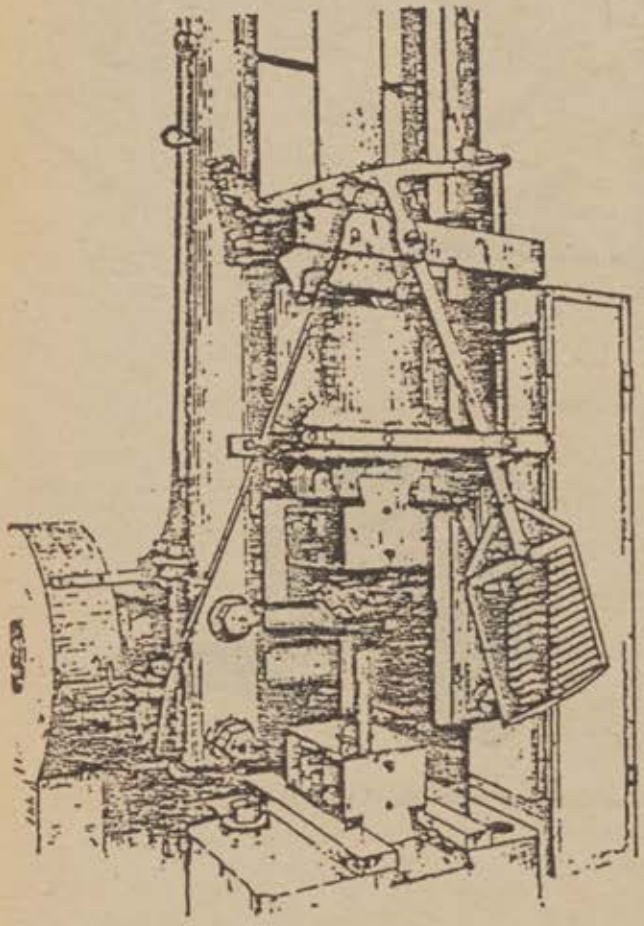


Treadle guards for presses and shears to prevent unintentional tripping.

Guarding Punching or Bending Actions by Barrier Guards



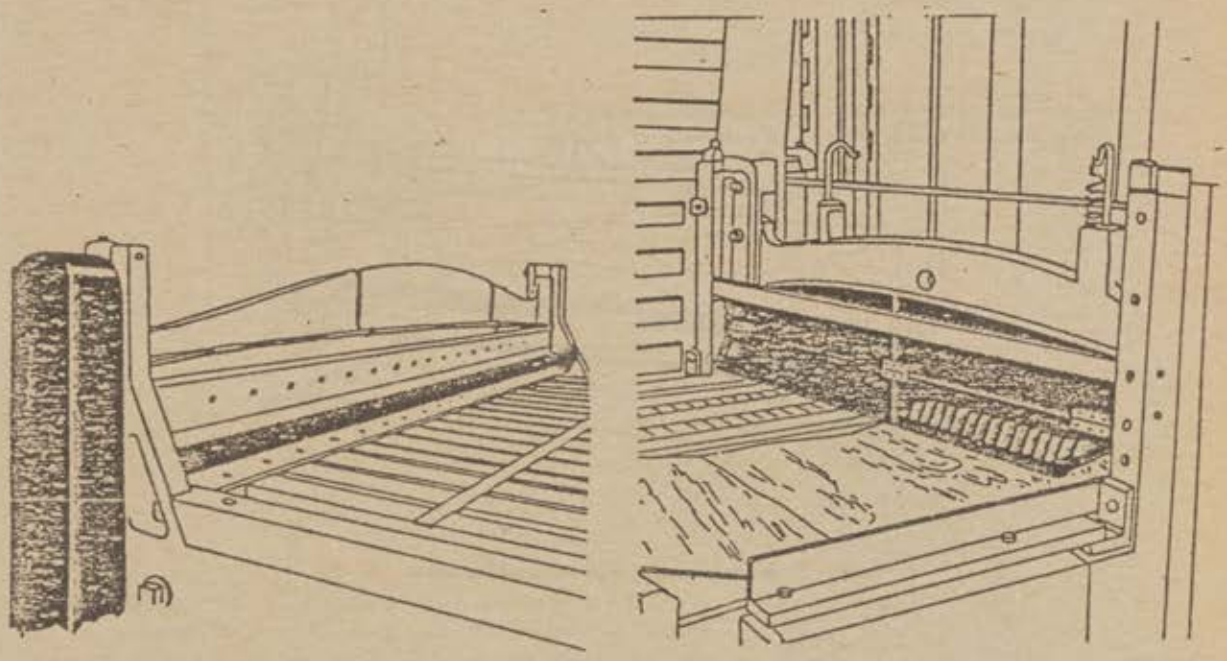
Stock is fed into die outside of danger zone. Hinged barrier guard closes automatically when sliding die is moved into position.



A barrier guard, operated by the tripping device of the press, is interposed in front of the plunger before the plunger descends.

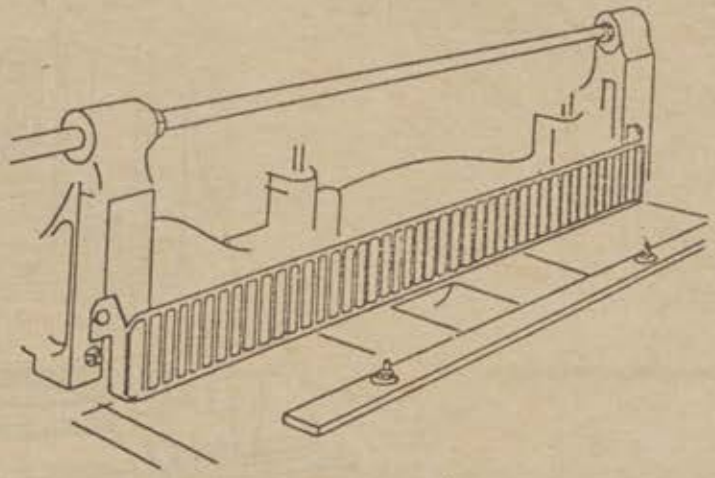
BARRIER GUARD ON PUNCH PRESSES

Guarding Shearing Action by Barrier Guards



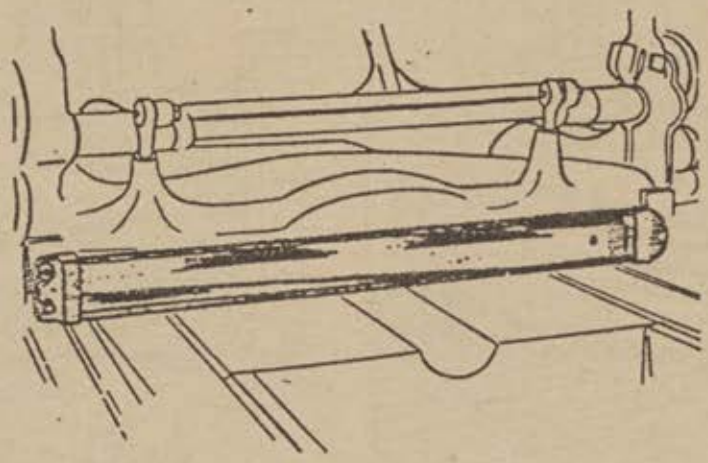
Back side Front side

Barrier guard for veneer clipper.

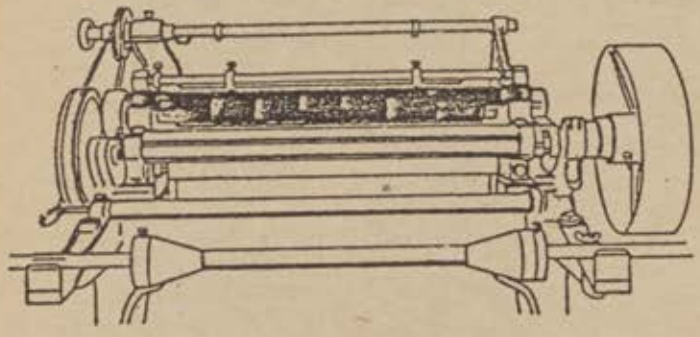


Adjustable barrier guard for feed side of squaring shear.

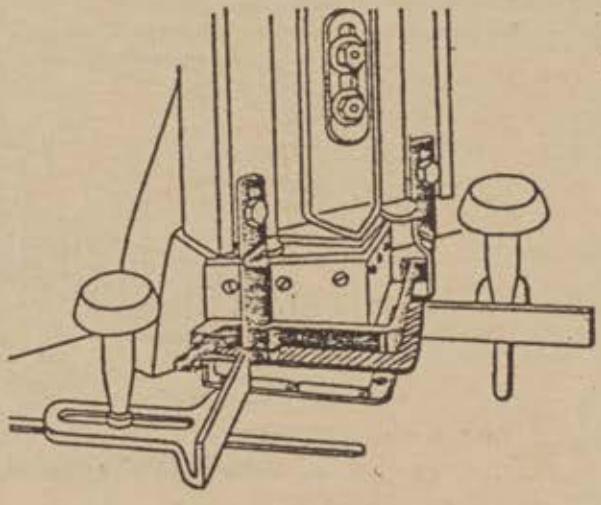
Guarding Shearing Action by Barrier Guards



Fixed transparent barrier guard for shear.



Barrier guard on feed side of paper slitter.



Barrier guard on paper corner cutter.

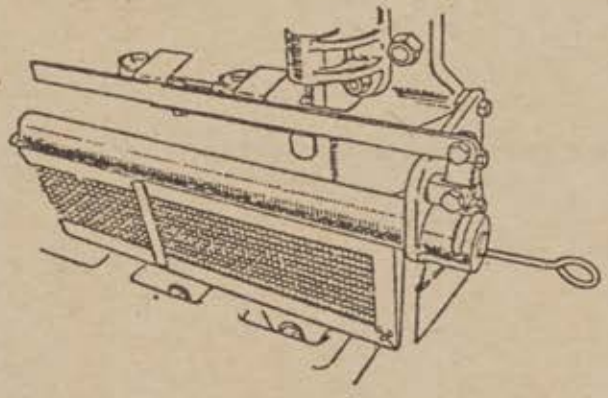
Guarding Punching or Bending Actions by Interlocking Guards



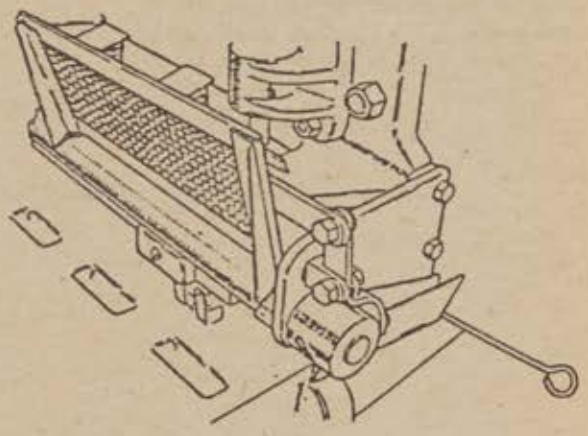
Gate guard on punch press. Guard is interlocked with tripping device of press so that plunger cannot descend until gate is in closed position.



Photoelectric relay (electric eye) prevents operation of press while operator's hands are in the danger zone. Should not be used on positive clutch presses where ram continues its stroke after tripping of press.



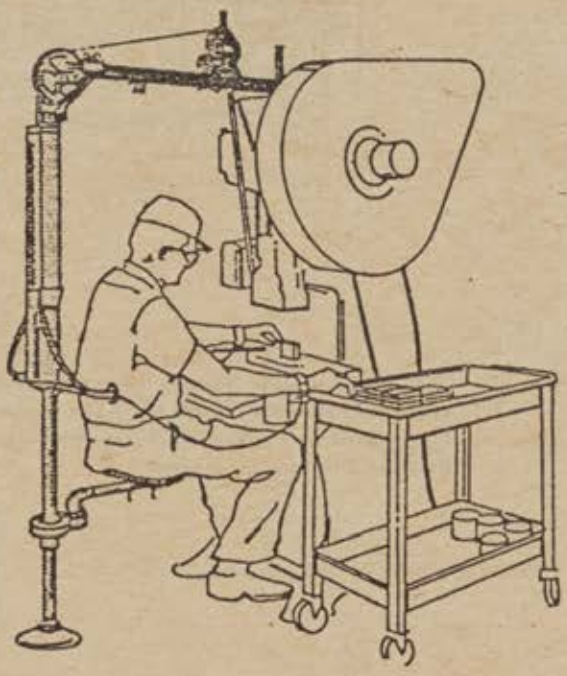
Guard closed, starting control accessible.



Guard open, starting control inaccessible.

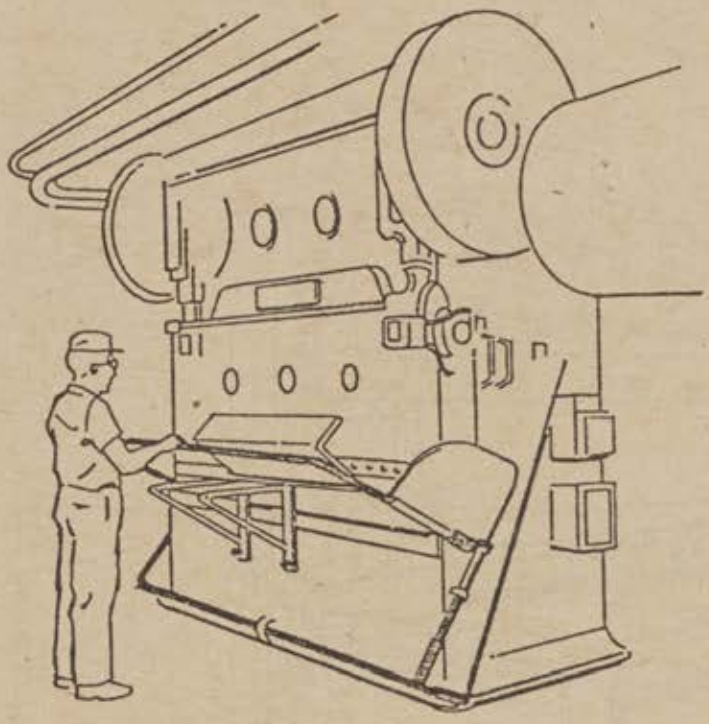
GUILLOTINE SHEAR EQUIPPED WITH TWO-HANDED CONTROL INTERLOCKED WITH BARRIER GUARD

Guarding Punching or Bending Actions by Automatic Guards

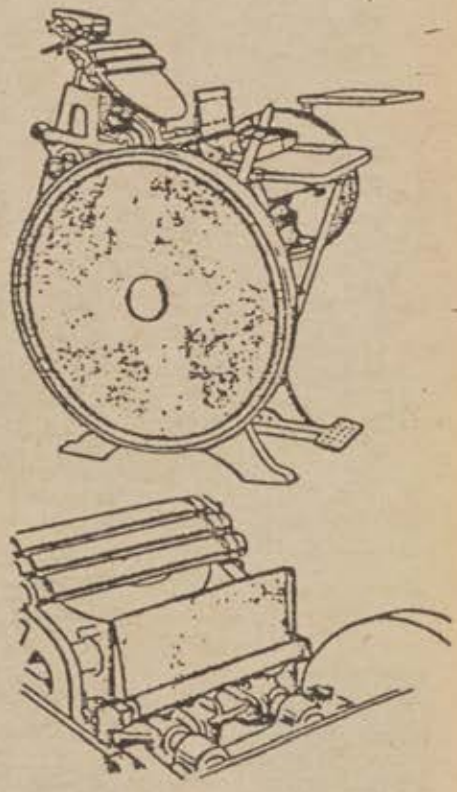


Pull-away guard. Operator's hands are pulled away from danger zone before ram descends.

Guarding Punching and Bending Actions by Automatic Guards



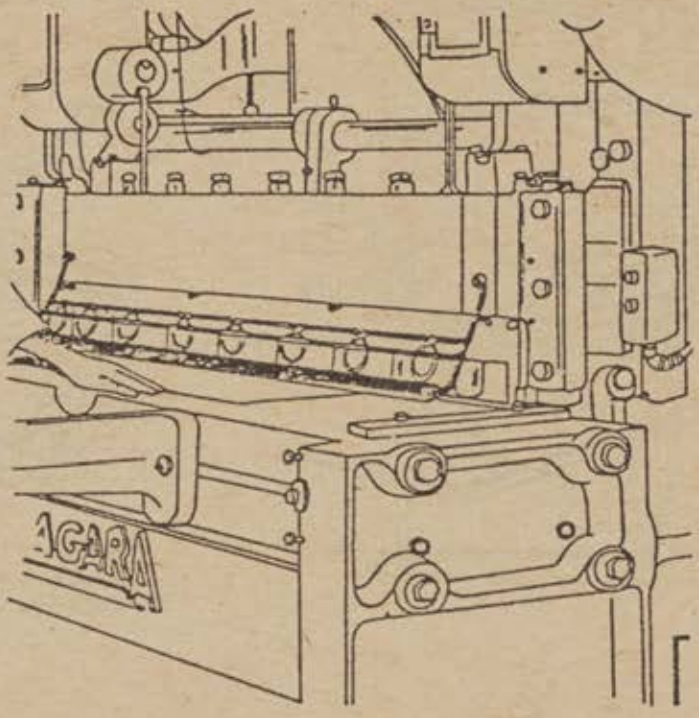
Power brake. Automatic device pushes operator away from danger zone when power brake is operated.



Platen press. Barrier guard, operated by the reciprocating crank, pushes operator's hands out of danger zone when press closes.

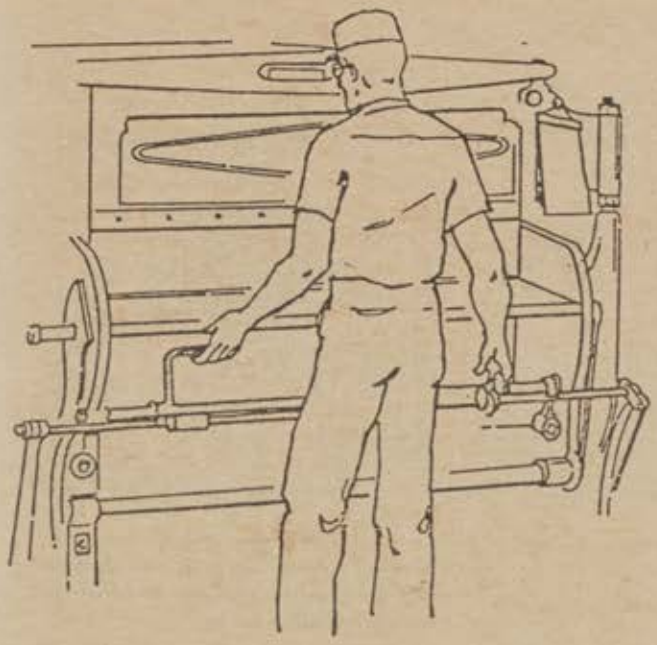
GUARDING BRAKES AND PRESSES BY AUTOMATIC PUSH-AWAY GUARDS

Guarding Shearing Action by Automatic Guards

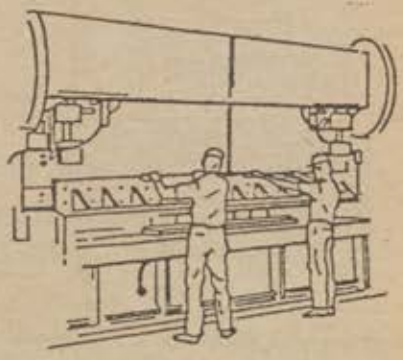


Power shears. Roller guard rests on sheet stock as it is fed into the shear. Descending ram will force roller out, and roller pushes operator's hands away from knife. When ram ascends, roller will rest in vertical position.

Guarding Shearing Action by Remote Control Placement, Feeding or Ejection

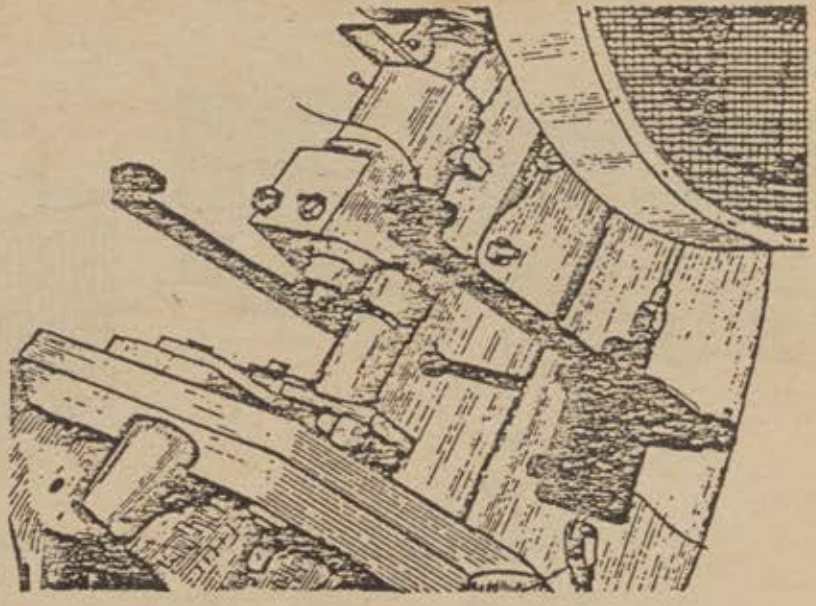


Two-handed tripping device for paper guillotine shear.

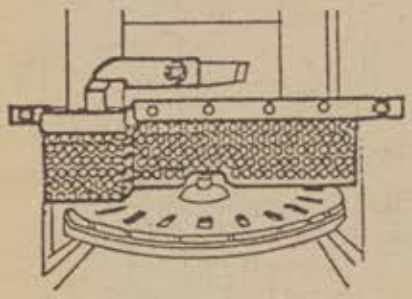


Two-man operated press with each operator required to activate two switches simultaneously.

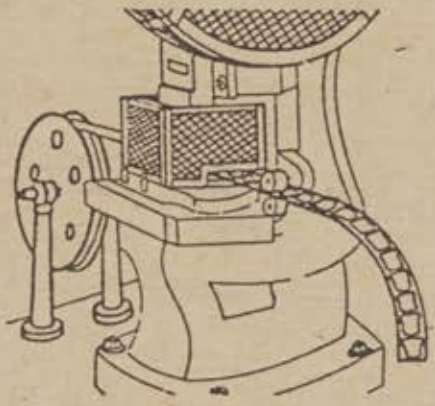
Punch press. Two-handed tripping device requires the simultaneous use of both hands to trip the press. On presses with noninterrupting stroke, device should require continuous pressure on controls so that operator cannot reach into the press.



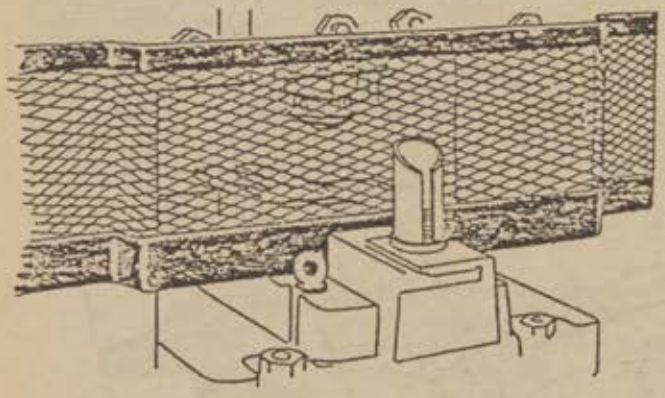
Guarding Punching Action by Remote Control, Feeding or Ejection

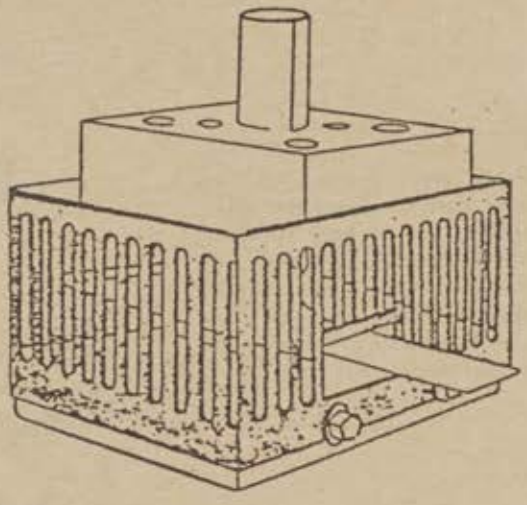


Rotating die. Stock is fed manually into rotating die and is carried automatically under the plunger.



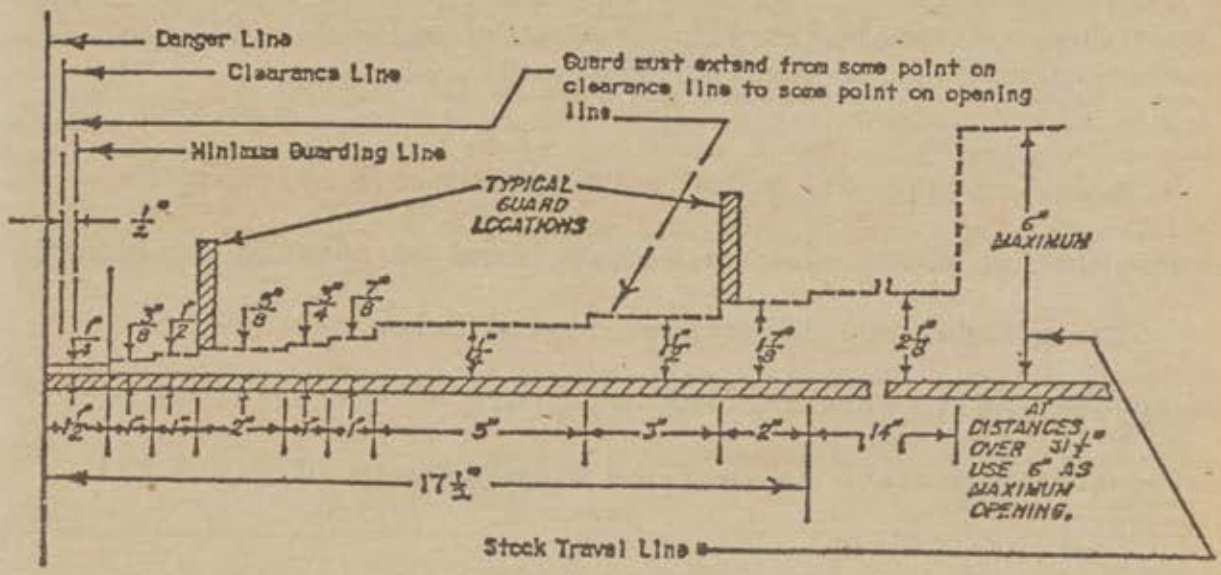
Automatic feed: Stock is fed automatically to plunger, operator required only to restock feeding device.





Other types of enclosure guards for use with automatic feeding.

Guarding Punching Action by Remote Control, Feeding or Ejection



Explanation of above diagram:

This diagram shows the accepted safe openings between the bottom edge of a guard and feed table at various distances from the danger line (point of operation).

The *clearance line* marks the distance required to prevent contact between guard and moving parts.

The *minimum guarding line* is the distance between the infeed side of the guard and the danger line which is one-half inch from the danger line.

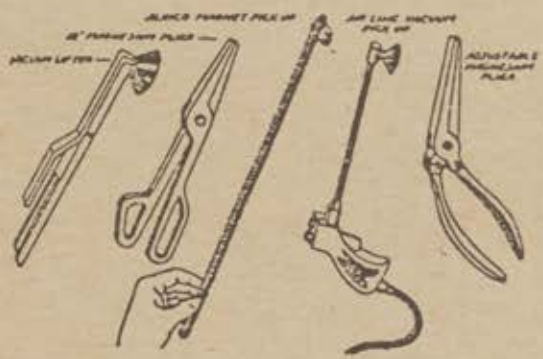
The various openings are such that for average size hands an operator's fingers won't reach the point of operation.

After installation of point of operation guards and before a job is released for operation a check should be made to verify that the guard will prevent the operator's hands from reaching the point of operation.

Table O–10

Distance of opening from point of operation hazard (inches)	*Maximum width of opening (inches)*
½ to 1½	¼
1½ to 2½	⅜
2½ to 3½	½
3½ to 5½	⅝
5½ to 6½	¾
6½ to 7½	⅞
7½ to 12½	1¼
12½ to 15½	1½
15½ to 17½	1⅞
17½ to 31½	2⅛

This table shows the distances that guards shall be positioned from the danger line in accordance with the required openings.



Guarding by the use of special tools. The use of specially designed hand-tools for placing material into the press is also acceptable.

D. Guard Construction and Specifications

Machine guards to be effective must be built in accordance with recognized standards of construction and of performance. They must be designed so as to eliminate the hazard; they must create no hazard of their own; they must be sturdy enough to withstand normal wear; and they should not interfere with production.

Refer to Appendix B for information on specifications available for particular machinery items or machine groupings.

The general specifications listed below may be used as guidelines in constructing enclosure or barrier-type safeguarding devices to meet the requirements of §1910.213.

Size of Framework Materials

(1) Minimum dimensions of materials for the framework of all guards except as noted in paragraph 3 shall be angle iron 1 inch × 1 inch × ⅛ inch, metal pipe of ¾ inch inside diameter or metal construction of equivalent strength.

All guards shall be rigidly braced every 3 feet or fractional part of their height to some fixed part of machinery or building structure. Where guard is exposed to contact with moving equipment, additional strength may be necessary.

(2) The framework for all guards fastened to floor or working platform and without other support or bracing shall consist of 1½ inch × 1½ inch × ⅛ inch angle iron, metal pipe of 1½ inch inside diameter or metal construction of equivalent strength. All rectangular guards shall have at least four upright frame members each of which shall be carried to the floor and be securely fastened thereto.

Cylindrical guards shall have at least three supporting members carried to floor.

(3) Guards 30 inches or less in height and with a total surface area not in excess of 10 square feet may have a framework of ⅜ inch solid rod, ¾ inch × ¾ inch × ⅛ inch angle or metal construction of equivalent strength.

Size of Filler Materials

Material	Clearance from moving part at all points	Largest mesh or opening allowable	Minimum gage (U.S. standard) or thickness	Minimum height of guard from floor or platform level
	(Inches)	*(Inches)*		*Feet-Inches*
Woven wire	Under 2	½	No. 16	7–0
	2–4	½	No. 16	7–0
	Under 4	½	No. 16	7–0
	4–15	2	No. 12	7–0
Expanded metal	Under 4	½	No. 18	7–0
	4–15	2	No. 13	7–0
Perforated metal	Under 4	½	No. 20	7–0
	4–15	2	No. 14	7–0
Sheet metal	Under 4		No. 22	7–0
	4–15		No. 22	7–0
Wood or metal strip crossed	Under 4	½	Wood ¾ inch or Metal No. 16	7–0
	4–15	2		
Wood or metal strip not crossed	Under 4	½ width		
	4–15	1 width		
Standard rail	Minimum 15			
	Maximum 20			

Method of Fastening Filler to Frame

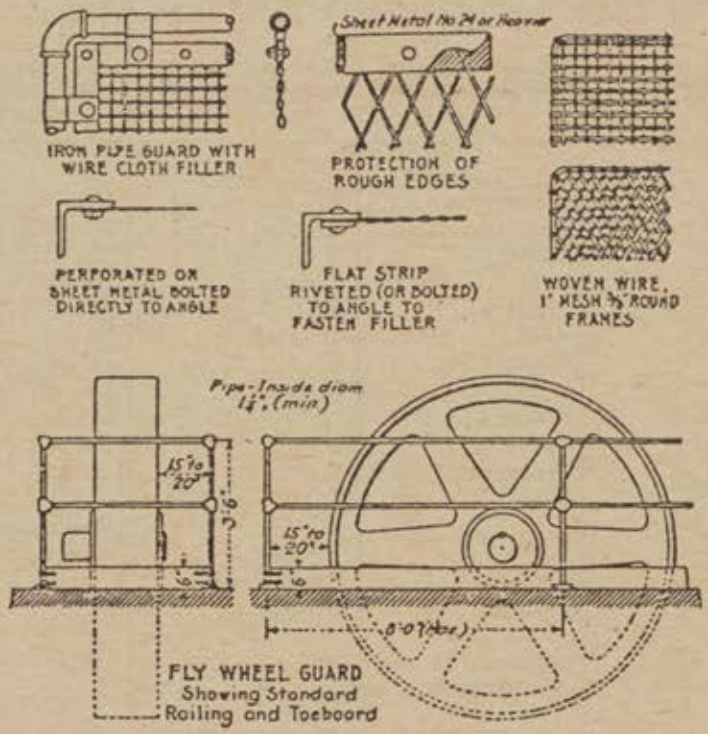
(1) With rivets or bolts spaced not more than 5 inches center to center. In case of expanded metal or wire mesh, metal strips or clips shall be used to form a washer for rivets or bolts.

(2) By welding to frame every 4 inches.

(3) By weaving through channel or angle frame; or if No. 14 gage ½ inch mesh or heavier is used, by bending entirely around rod frames.

(4) Where openings in pipe railing are to be filled in with expanded metal, wire mesh, or sheet metal, the filler material shall be made into panels with rolled edges or bound with "V" or "U" edging of No. 24 gage or heavier sheet metal fastened to the panels with bolts or rivets spaced not more than 5 inches center to center. The bound panels shall be fastened to the railing by sheet-metal clips spaced not more than 5 inches center to center.

Note: Diamond or square mesh made of crimped wire fastened into channels, angle or round-iron frames, may also be used as a filler in guards.



Acceptable Guard Construction.

VOLUNTARY ANSI STANDARDS

This section of the Appendix lists 22 ANSI standards, relevant to machine guarding, which have not been reviewed or adopted by OSHA. They are listed solely for informational purposes, and no approval by OSHA of these standards is intended by their conclusion in this Appendix.

(1)	ANSI B11. 13-1975	Automatic Screw Bar and Chucking Machines, Safety Requirements for Construction, Care, and Use of Single and Multiple Spindle
(2)	ANSI B153.1-1974	Automotive Lifts, Safety Requirements for Construction, Care, and Use of
(3)	ANSI B11. 7-1974	Cold Headers and Cold Formers, Safety Requirements for Construction, Care, and Use of
(4)	ANSI B20.1-1972	Conveyors and Related Equipment, Safety Standards for
(5)	ANSI B152.11-1973	Die Casting Machines, Safety Requirements for Construction, Care and Use of
(6)	ANSI B11.8-1974	Drilling, Milling, and Boring Machines, Safety Requirements for Construction, Care and Use of
(7)	ANSI B169.1-1975	Envelope Manufacturing Equipment, Safety Requirements for
(8)	ANSI B11.9-1975	Grinding Machines, Safety Requirements for Construction, Care, and Use of
(9)	ANSI B11.5-1975	Iron Workers, Safety Requirements for Construction, Care and Use of
(10)	ANSI B11.6-1975	Lathes, Safety Requirements for Construction Care, and Use of
(11)	ANSI B11.10-1974	Metal Cutting Saws, Safety Requirements for Construction, Care, and Use of
(12)	ANSI Z268.1-1974	Metal Scrap Processing Equipment, Safety Requirements for
(13)	ANSI Z259.1-1974	Paper Bag and Sack Manufacture, Minimum Safety and Health Requirements for

(14) ANSI B11.3-1973	Power Press Brakes, Safety Requirements for Construction, Care, and Use of
(15) ANSI B155.1-1973	Packaging and Packaging Related Converting Machinery, Safety Requirements for
(16) ANSI Z245.1-1975	Refuse Collection Equipment, Safety Requirements for
(17) ANSI B154.1-1974	Rivet Setting Equipment, Safety Requirements for Construction, Care, and Use of
(18) ANSI Z241.1-1975	Sand Preparation, Molding, and Core Making in the Sand Foundry Industry, Safety Requirements for
(19) ANSI B157.1-1974	Scales, Weighing Machines, and Weighing Systems, Safety Requirements for
(20) ANSI B11.4-1973	Shears, Safety Requirements for Construction, Care and Use of
(21) ANSI Z229.1-1973	Shops Fabricating Structural Steel, Safety Requirements for
(22) ANSI B177.1-1975	Three Roller Printing Ink Mills, Safety Requirements for

APPENDIX B

Regulatory Guide on Specification Provisions

[To contain revised OSHA machine guarding standards, s1910.213 through s1910.219. See the accompanying notice for these standards and for a description of how to provide comment to OSHA on their revision.]

[FR Doc.77-100 Filed 1-6-77;8:45 am]

[29 CFR Part 1910]

[Docket 0-1]

MACHINERY AND MACHINE GUARDING

Request for Information on Technical Issues

The Occupational Safety and Health Administration (OSHA) is considering revising Subpart O of Title 29, Code of Federal Regulations, Part 1910, which establishes standards relating to machinery and machine guarding. These standards contain general requirements for the guarding of machinery (§ 1910.212), and specific requirements for woodworking machinery (§ 1910.213), cooperage machinery (§ 1910.214), abrasive wheel machinery (§ 1910.215), mills and calendars in the rubber and plastics industries (§ 1910.216), mechanical power presses (§ 1910.217), forging machines (§ 1910.218) and mechanical power-transmission apparatus (§ 1910.219).

This notice is intended to solicit data necessary for the revision of Subpart O, and to provide the public an early opportunity to participate in the review of the existing standards by inviting public comments on the scope and form that possible revisions of Subpart O of Part 1910 should take. In addition to inviting the submission of written comments and data, the notice announces the scheduling of informal information-gathering meetings to permit oral presentation of data and information to OSHA.

This notice is issued in accordance with OSHA's new procedure announced in the FEDERAL REGISTER on April 23, 1976 (41 FR 17100) for the revision of safety standards originally promulgated pursuant to section 6(a) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655). That notice stated, among other things, that OSHA would announce individually the standards to which the new procedure would apply. OSHA has now decided to apply this new procedure in revising Subpart O of Part 1910.

I. BACKGROUND

The existing Subpart O became effective on August 27, 1971, and February 15, 1972, after promulgation pursuant to section 6(a) of the Act, which allowed OSHA during a two-year period ending on April 28, 1973, to promulgate national consensus standards and federally established standards without public comment or hearing. Subpart O was derived primarily from the then existing national consensus standards published by the American National Standards Institute (ANSI) and in part on established Federal standards issued under the authority of the Walsh-Healey Act (41 U.S.C. 35). Subsequently, OSHA amended particular paragraphs of §§ 1910.211 and 1910.217 (36 FR 157, 8/13/71; 37 FR 23718, 11/8/72; 38 FR 16223, 6/21/73; 39 FR 41841, 12/3/74; 40 FR 3982, 1/27/75.) Experience since promulgation of Subpart O has indicated many difficulties in the application of certain specific requirements of this subpart. Additionally, it has been suggested that particular requirements have no direct effect upon the safety of employees, that many details are such as to directly concern only the manufacturer of machinery, and that there may be areas where current technology has surpassed existing requirements with the result that the present Subpart O may no longer be an effective means of providing the employee safety intended by the Act. Finally, the provisions of many of the ANSI standards on which Subpart O was based have been changed and OSHA has been petitioned to modify its standards accordingly.

On April 23, 1976, when OSHA announced its new procedure for the revision of safety standards, OSHA solicited public participation in the development of new approaches to OSHA's safety standards. In today's issue of the FEDERAL REGISTER (42 FR 1742), one possible approach to revising Subpart O is discussed. If OSHA were to adopt that suggested approach, the standards of Subpart O would need to be revised to conform to that approach. In any event, however, there is a need to consider revision of the standards comprising Subpart O. In this effort to review and revise the various provisions of Subpart O, OSHA invites the full participation of the public.

II. THE ISSUES

(a) *General issues.* As discussed in the Notice of New Procedures for Revision of Safety Standards (41 FR 17100), there are certain issues which have been raised that are common to many of the standards promulgated under section 6(a) of the Act. These issues, as applied to Subpart O, are set forth below:

1. Whether particular provisions of Subpart O should set forth specifications which must be met by employers or should, rather, require a level of performance or the achievement of a goal which would ensure employee safety without requiring specific means of meeting that performance level. For example, the requirement in § 1910.216(c)(1) that "safety tripping devices shall be located within reach of the operator and the bite" has been criticized for not informing employers of the distances at which these safety devices should be installed. On the other hand, sections 1910.213–1910.219 of Subpart O set forth detailed specifications for the design and construction of guards on particular machines without allowing for differences in design or material either on existing machinery or on machines which are built subsequent to promulgation of the standard, and without providing for subsequent advances in new technology. Many of these differences, if allowed, might not materially affect the safety of employees. Should a revised Subpart O explicitly permit equipment which provides safety substantially equivalent to the established standard by requiring the employer to meet a level of performance rather than design specifications?

Related to the question of whether particular provisions of the standards in §§ 1910.213–1910.219 should contain specifications or should be performance oriented, is the broader question of whether all machines should be covered by the same performance requirements, such as the requirement in the existing § 1910.212. This question is discussed at length in a notice of a suggested approach to Subpart O published in today's issue of the FEDERAL REGISTER (42 FR 1742). If any performance approach is adopted—whether it is the suggested approach, an expanded § 1910.212, or any other overall performance requirement—should the standard also include recommended means or alternatives, showing details of design, material and construction, which would constitute one way but not necessarily the only way of meeting the performance requirements of the standard?

2. Whether particular provisions of Subpart O should be revoked because they are of marginal value in terms of employee safety or because they are directed to protection of equipment or property rather than employees. For example, § 1910.219(o)(3)(iii) requires that overhead belt guards "shall be at least one-quarter wider than the belt which they protect." Should this requirement be revoked on that view that it is primarily designed to prevent abrasion of the belt and thus extend its life rather than prevent exposure of employees to the belt which can create a hazard and result in injury. As another example, § 1910.217(f)(4) requires employers to operate mechanical power presses "within the tonnage and attachment weight ratings, specified by the manufacturer." Does this section have any relevance to employee safety: To what extent are there requirements in Subpart O that have little, if any, relevance to employee safety?

3. Whether there are gaps in coverage in Subpart O that give rise to unsafe conditions for employees, and how these gaps should be remedied? There are 22 ANSI standards covering machine groups for which there are no OSHA counterpart specification standards. As just one example, ANSI B.11.6–1975 contains detailed safety requirements for the construction, care and use of lathes, whereas Subpart O specification standards do not cover lathes. Should lathes be subject to specific requirements? If so, how should the point of operation of lathes be guarded? Should any of the other ANSI machine groups be covered by specific requirements or should these machine groups be subject only to the general guarding requirements of § 1910.212? (A list of the ANSI machine standards is available in Appendix A of the notice on the suggested approach to Subpart O in today's issue of the FEDERAL REGISTER at page 1742). Do particular machine groups present greater hazards to employees than other machine groups? What injury data showing frequency, severity and cause of injury are available?

In addition to gaps created by the lack of specification standards for particular machine groups, are there gaps in coverage of the individual specification standards of §§ 1910.213–1910.219 of Subpart O. For example, bung—boring ma-

chines are not covered by the cooperage standard in § 1910.214. What other gaps are there which deprive employees of needed protection?

4. Whether particular provisions of the existing standards need simplification or clarification? For example, should the definition of flanges in § 1910.211(b)(9) be clarified by substituting in that definition "straight relieved or straight unrelieved types" for the words "back up type"?

5. How should ANSI standards be utilized in these OSHA regulations? If an ANSI standard is referred to, either in connection with legally binding requirements or with recommended means of compliance, should it be done merely by reference to an ANSI standard or should it be done by reprinting the relevant text of that standard in the OSHA regulation? In considering this question, it should be recognized that the specifications dealing with machinery and machine guarding are voluminous. What, if anything, should be done as the ANSI standards are periodically updated?

(b) *Specific issues.* In addition to the above general issues, OSHA invites comments on specific issues relating to Subpart O. OSHA's paragraph-by-paragraph presentation of comments and requests for revision raises a number of specific issues. Some of these issues apply across the board to all standards in Subpart O, and it is to these that the attention of the interested public is particularly directed. These issues are:

1. *Scope:* (a) Whether there is a need for a scope provision which clearly identifies the machines covered and excluded from Subpart O, so as to avoid possible confusion with machinery that is covered by Subpart F (Powered Platforms, Manlifts and Vehicle-Mounted Work Platforms), Subpart M (Compressed Gas and Compressed Air Equipment), Subpart N (Materials Handling and Storage), Subpart P (Hand and Portable Powered Tools and Other Hand-Held Equipment), Subpart Q (Welding, Cutting and Brazing) and Subpart R (Special Industries)? What type of machinery should be covered by Subpart O? What equipment should be excluded? Should elevators, vehicles and food processing equipment be excluded?

(b) Whether there is a need for a scope section for each of the specification standards (§§ 1910.213–1910.219) of Subpart O in order to clarify the coverage of each of these standards. For example, a scope section for § 1910.213 would indicate whether the requirements of that section applied to woodworking saws cutting materials other than wood.

2. *Guard materials:* Whether Subpart O should universally allow the use of guards made from all materials which are of equivalent strength, impact resistance and rigidity. Should a strength specification be required for construction of guards or would performance criteria be sufficient if such criteria identified the hazard to protect against? Particular provisions of Subpart O specification standards, such as § 1910.219 (h)(1) require metal guards. Other sections, such as §§ 1910.215(b)(10) and 1910.219 (m)(2) specify the allowable types of metal. Should OSHA allow guards constructed of other materials? In which situations would employee safety necessitate limiting the materials from which a guard can be constructed?

3. *Lockouts:* Should lockout be required when machinery is not in normal operating mode, or should alternative methods for employee protection, such as tag-out, be permitted? One of the most common hazards of machinery is unintended operation or movement during set-up, maintenance, repair, inspection, and testing. Many current OSHA or voluntary standards direct their major emphasis at machinery operator safety while performing normal operations. A few standards do make special provision for the safety of other than the operator when machinery is not in normal operating mode. The need to disable machinery using more than the normal stop or shutdown controls has resulted in the development of systems for lockout of machine actuation controls. Some methods of lockout are: the use of locks; plugging of piping or tubing; disconnect of power by removal of electric plug; operating mode, control key-locked selector; electrical fuse removal; or wiring disconnect. The substitution of a tag in lieu of positive lock or seal is used by some industries which can police and enforce the tagging rule. A combination lock and tag is sometimes used to enable ready identification of the person or craft which secured the machine and attached the identifying tag. A review of the newer voluntary standards for machine tools discloses that provisions for facilitating locking out and/or tagging are now incorporated in the requirements for machine actuating controls or main power supply. In the case of controls it is possible to provide restrictions which would not necessarily completely disable a machine. Some examples of more limited forms of machine energy control are die safety blocks, ram blocks, machine mode selector (for jog using flywheel bar or inch using separate control circuits) or actuating button performance characteristics (continuous, single, inch, jog).

What are the characteristics of a machine, for example size, tooling, power train, control system, prime mover (electrical, air, hydraulic), which would require that a means of securing power to prevent motion either by lockout or tagout or some other alternative method be provided? What criteria should be used to determine which types of machines should be capable of lockout and/or tagging for purposes of employee safety? What machines should be exempted from any lockout and/or tagging requirements, i.e., machines provided with cord and plug power connector? What machine characteristics distinguish those which should be provided with a means for accomplishing lockout from those that could be tagged out? Should limitations be placed on the acceptability of certain methods for securing power, such as tagging or operating mode selectors? OSHA solicits detailed information as to lockout, tag-out and any alternative methods for securing power. Experience with particular methods, as well as detailed injury data, is requested.

4. *Equipment design responsibility.* What responsibility, if any, as to the design and construction of new equipment and the modification of existing equipment can reasonably be placed on an employer?

5. *Passerby protection.* Should guarding requirements address hazards to the operator only or should they be designed to also protect employees at adjacent machines or passageways?

6. *Inspection and maintenance.* Is there a need to require machine inspection and maintenance of all machinery or should inspection and maintenance programs be required only for such inherently dangerous machines as mechanical power presses? What are the requirements which should be applied to all machinery? To particular machinery? What should constitute maintenance; oiling a machine, changing the abrasive wheel of a simple pedestal grinder with a sealed-bearing motor?

7. *Training.* Should operator training programs be required? If so, what should be the contents of such programs?

8. *Guarding by location.* Whether guarding by location should be recognized as a safeguarding method meeting the requirements of § 1910.212? If so, under what circumstances should additional guarding be required? Some of the ways in which guarding by location may be accomplished are: installation of machinery at heights above the reach of employees; locating a machine behind a partition or solid barrier which protects the operator and other employees in the area; designing other machine components around the hazardous part of the machine so as to prevent the operator from reaching through, over, under or around the hazardous area; restricting access by placement of pedestrian type barriers, fencing, cables or guardrails; restricting access through use of an electrically interlocked gate which has a control that stops operation of the machine upon opening of the gate and has a reset button, located outside of the barrier, which must be activated before machine operations are resumed; and locating machine controls at an operator's station which is protected from the hazards of the machine either because the operator controls are remotely located in a cab, platform, pulpit or fixed seat, or because the controls are provided with devices such as presence sensing mats or continuous pressure switches. Some of these methods protect only the operator of the machine, and some protect the operator and other employees in the area. Should guarding by location be permitted only when it protects all employees in the area during normal operation of the machine? Should guarding by location not be acceptable during other than normal operation of the machines, such as servicing, maintenance or testing of equipment? Maintenance employees need to enter areas barred to regular em-

ployees to operate the machine, or a part thereof, in order to service or repair it. Guarding by location may not be an effective safeguard in such situations.

OSHA solicits information on these questions and also on all methods of guarding by location currently in use. Specific information is requested on the circumstances in which each method is used and on specific requirements which should attach to each method.

(c) Additional Issues. Other specific issues, which pertain to patricular sections of the existing Subpart O are also raised in the columnar document. Some of these issues are:

1. § *1910.211 (Definitions)*. Whether there should be one definition of "point of operation" which would be applicable to all machines covered by Subpart O? The existing standard defines "point of operation(s)" for woodworking and cooperage machines (§ 1910.211(a)(1)), for mechanical power presses (§ 1910.211 (d)(45)), for mechanical power transmission apparatus (§ 1910.211(f)(8)), and for machinery in general (§ 1910.212 (a)(3)). (In this connection, it should be noted that OSHA contemplates, in revising the standard, to include the definitions applicable to particular types of machinery within the same standard as the requirements for that machinery, and to retain in a general definitions section, such as § 1910.211, only definitions applicable to all types of machinery.)

2. § *1910.212 General requirements for all machines*. (a) Whether § 1910.211 should be expanded to afford greater protection to employees? Should this section cover hazards, other than point of operation hazards, such as electrical hazards, hazards of machine installation, and hazardous workpieces? Should employers be required to replace dull or damaged tools or machine parts to protect employees from the hazards created thereby? Should § 1910.212 be expanded to include requirements for machinery other than those requirements for guarding and anchoring? Should OSHA require, for example, that operator actuated controls be located within easy reach of the operator's work station in order to eliminate the need for the operator to reach over or into a hazardous area to start, stop or adjust the machine? Should emergency stop controls be required near the point of operation, and, if so, under what conditions? If control requirements should be included, to what extent do such controls exist on machinery currently in use? If such controls do not currently exist, to what extent would they be feasible for all types and sizes of machines; does the technology exist to design such controls so that they do not interfere with normal operation of the machine or would an across the board requirement mean that particular machines would be outlawed? If employers are required to retrofit, what would be a reasonable period of time to accomplish this retrofitting on particular types of machines? Should special requirements be applicable where existing machinery is modified or is used other than for its intended purpose? What should such requirements include?

(b) Whether there is a need to clarify the machine guarding methods which meet the requirements of § 1910.212? Should particular safeguarding methods be required for particular hazards or for particular machines, or should an employer be allowed the option of selecting any kind of safeguarding method, including safeguarding by location, shield or barrier, which he feels is adequate to protect against the hazard created by his machine in his workplace?

(c) Is additional guidance necessary so that employers are informed on how to meet the level of performance required by § 1910.212? Should a list of industry consensus standards be developed for this purpose?

(d) Whether fan blade exposure requirements more properly should be treated in Subpart P which contains standards for portable power tools and equipment? Should different requirements apply to fans depending on whether they are used for employee comfort cooling or process air movement? Should the size of the guard opening vary depending on the distance of the guard from the blade of the fan?

3. § *1910.213 Woodworking machinery*. (a) What should be the scope of this standard? Should the structural plywood industry be included or excluded from coverage by this section? To what extent is the woodworking machinery currently described in § 1910.213 used in the structural plywood industry? What particular provisions of § 1910.213 present conflicts for sawmill operations covered by § 1910.-265 of Part 1910?

(b) Whether particular terms used in the standard should be defined and, if so, how should they be defined? For example, how should "swing-head lathes" used in both § 1910.213(o) and the ANSI source standard (ANSI) 01.1–1975) be defined? OSHA solicits information, particularly from woodworking machine tool manufacturers and users, as to the machine equipment terms used through § 1910.213. Comment is also requested on whether particular terminology in the standard is outdated or is commonly used only in particular industries. For example, § 1910.213 refers to "drag saws." The ANSI source standard refers to the same equipment as "log cut-off saws." Which is the more universal term? Paragraph (q) of § 1910.213 includes the term "veneer wringers" in its title. The ANSI source standard does not mention "veneer wringers." Should this term be included?

(c) Should the standard allow the use of a fixed or manually adjusted blade guard in place of an automatically adjustable guard on a circular hand fed ripsaw? What clearance dimensions between the fixed or manually adjusted guard and the work piece should be established in order to provide sufficient operator protection?

(d) Should the standard mandate braking on all woodworking machines where a coasting saw blade might expose employees to a hazard, and if so, what design specifications or performance criteria should be required to effectively control the hazard exposure?

(e) Is there a need to require the marking of saw blades to ensure the use of correct operating speed on woodworking machines?

(f) What problems and what hazards occur when using lower blade guards on radial arm saws for universal application? Are there any commercially available lower blade guards which will permit unrestricted operation for bevel and compound cuts, and if not, what methods other than lower blade guards can be used which will afford equivalent operator protection?

4. § *1910.214 Cooperage machinery*. (a) whether there is need for a separate cooperage standard or whether cooperage should be covered, as in ANSI 01.1–1975, by the same standard as woodworking? To what extent are the same or similar machines used in both industries? Are the hazards different if a machine is used for cooperage or for other woodworking products? Data on the number of cooperage facilities and the number of persons employed at such facilities is requested.

(b) Whether requirements for additional cooperage machines, for example, hog mills, should be included in the standard?

5. §*1910.215 Abrasive wheel machinery*. (a) Whether this standard should also cover grinding operations using sandstone, pulpstone and abrasive coated discs of metal, wood, cloth, or paper?

(b) Whether particular design specifications for guards and flanges in paragraphs (b) and (c) of this standard are more restrictive than necessary for employee protection? For example, § 1910.-215(a)(4) requires that work rests shall be kept adjusted closely to the wheel with a maximum opening of one-eighth inch. Would larger openings, proportional to the size of the piece being ground, be more hazardous?

(c) Is there a need to include within this standard mandatory work practices, and, if so, what particular practices?

(d) Should specific rules regarding the use of personal protective equipment be included in this standard or would a reference to Subpart I, Part 1910 be sufficient? Since eye injury is said to be the most frequent type of injury associated with abrasive wheel machinery, what particular requirements should be incorporated in this standard to reduce the occurrence of eye injury?

6. § *1910.216 Mills and calendars in the rubber and plastics industries*. (a) Whether the requirements of § 1910.216 should apply to mills and calendars in industries other than the rubber and plastics industry?

(b) Whether installations of mills in the rubber and plastics industry, built prior to August 31, 1971, should be required to meet the 50-inch mill roll height requirements of section 1910.216(a)(4)? Injury data for such mills is solicited. What would be a reasonable length of time to allow for compliance by these older facilities?

7. § *1910.217 Mechanical power presses.* (a) Whether a scope and application statement based on ANSI B11.1–1971 should be added to this standard or a different scope be developed by OSHA? It has been suggested that there is much confusion regarding what machines constitute mechanical power presses covered by § 1910.217. This section does not apply to such presses as ironworkers, shears, press brakes, envelope making machinery, engraving presses, leather cutting presses, brick presses and welding presses. Should the list of the excluded machines be expanded to explicitly exclude these machines and others from application of the standard?

(b) Whether press brakes, operated for production and functioning as mechanical power presses, shoud be subject to the § 1910.217 standards? When a press brake machine is fitted with dies for a production run and fed by an operator, the press brake functions in the same manner as the mechanical power press and the operator is exposed to the same hazards as the operator of the mechanical power press.

(c) Should the construction requirements in § 1910.217(b) be deleted as being relevant only to press builders and rebuilders?

(d) Brake monitors are required to be used with certain forms of safeguarding for hands-in-dies presses. What problems if any have been experienced with the procurement, installation, and performance of brake monitors? Does brake monitoring add significantly to operator safety? Should brake monitors be optional?

(e) What recognition or status should be accorded to the Tentative ANSI B11.1 revision relating to alternative (redundant) safeguarding, such as presence sensing devices in combination with pull-outs, when feeding with hands-out-of-dies is not feasible? Should the option of using redundant safeguarding satisfy § 1910.217(c)(5) in lieu of control reliability and brake monitoring? Should handtools for manual feeding continue to be acceptable as a form of hands-out-of-dies when meeting § 1910.217(c)(5) alternative safeguarding?

(f) Full revolution clutch presses account for about three quarters of operator injuries reported to OSHA. Should full revolution clutch presses operated with hands-in-dies feeding be required to have either redundant safeguards or limited choice of actuating means, for example, prohibition of foot treadle operation?

(g) Should the current prohibition of self-tripping using presence sensing devices effective December 31, 1976 continue to remain in effect?

(h) Should the ban on sweeps effective December 31, 1976 continue to remain in effect?

(i) Should foot pedal actuation be limited to fully guarded presses?

(j) Should a different safety distance formula based on the time for the closing portion of the press stroke be prescribed for part revolution clutch presses actuated by 2-hand trips?

(k) Can brake monitors checking on each application of the brake be as effective as those monitoring brake performance on every stroke?

8. *Section 1910.218 Forging machines.* (a) Which particular machines are considered forging machines that should be covered within § 1910.218?

(b) What hazards associated with saws, billet shears, conveyors, shot blast and other machines are unique only to forging operations?

(c) What hazards are associated with the use of lead in forge shops or die shops as opposed to the use of lead in any other type of operation?

(d) Should lockout be required for all forging machines? Lockout is currently required to forging presses (§ 1910.218(f)), for trimming presses (§ 1910.218(g)), for upsetters, (§ 1910.218(h)), for boltheading and rivet making (§ 1910.218(i)), and for billet shears (§ 1910.218(j)). What alternatives, if any, to lockout, would provide equivalent safety to employees?

(e) Data on machine injuries in the forging industry are solicited.

9. *Section 1910.219 Mechanical power-transmission apparatus.* (a) What particular machine elements or combinations thereof constitute power-transmission apparatus which should be covered by the requirements of § 1910.219 rather than the general machine guarding requirements of § 1910.212? Power-transmission apparatus can be an integral part of the machine. Belts and sheaves, chains and sprockets, and coupling and shafts are the most common types of power transmission apparatus. Other elements, such as cams, clutches, collars, and lead screws may be considered parts of the driven machine or a part of the power-transmission apparatus. How should the distinction as to applicability of the power transmission standard be made? Should machine elements be covered by the same requirements regardless of whether they are considered part of the power transmission apparatus or the driven machine?

(b) What present day design techniques and safeguarding methods should be incorporated into § 1910.219? The current standard is essentially the same as a 1924 standard published by the Bureau of Labor Standards. Most of the standard refers to the state-of-the-art of that era. What hazards are associated with newer power transmission apparatus? Injury data associated with equipment of particular design is solicited.

III. The Procedure

(a) *Written comments.* In order to facilitate the desired public comment on all relevant issues, this notice includes a three column presentation. One column contains the text of the existing standards; the second column sets forth the related ANSI provision where ANSI has modified the standard on which OSHA's existing standard was based; and the third column presents comments on the existing standard, requests for revision which OSHA has received and questions raised concerning the existing standard. The comments and recommendations contained in this document do not represent an OSHA position. It is hoped, however, that by setting them forth, OSHA will focus attention on some of the issues and questions relating to Subpart O and will encourage the submission of additional comments, alternatives, data (including injury data) and information from interested persons. Accordingly, interested persons are invited to submit written comments on the issues raised in this notice or on any other aspect of the standards comprising Subpart O. Written comments should be submitted on or before April 7, 1977, and should be sent to Docket O, Technical Data Center, Room N3620, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Written submissions should clearly identify the portions of the standard addressed and the position taken. The data, views and information submitted will be available for public inspection and copying at the Technical Data Center, at the above address. Everyone interested in commenting—employers, employees, experts and others—are urged to submit in writing their comments, any applicable statistics or other data, and any other information.

(b) *Public meetings.* In addition to this request for written submissions, OSHA is scheduling public meetings at several locations. The purpose of these meetings is to afford the public the widest possible opportunity to submit their data and views on issues raised by this notice and on any other matters relevant to Subpart O. The dates and locations for these meetings and other important information for those desiring to attend, are stated in OSHA's notice on a new approach to Subpart O published in today's issue of the Federal Register at page 1742.

(c) *Further proceedings.* Following completion of the meetings and expiration of the comment period, OSHA will review all the information, arguments, views and data collected, as well as any other relevant data. If appropriate, OSHA will develop a proposal to amend the existing standards of Subpart O and will initiate rulemaking proceedings under section 6(b) of the Act. In the event that a proposal is issued, all the information gathered will become part of the public record in that proceeding.

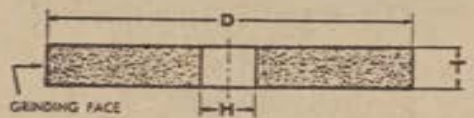
It should be noted, of course, that the existing standards continue in full force and effect, and will be enforced during this review process.

(Secs. 6 (84 Stat. 1593; 29 U.S.C. 655); Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C. this 27th day of December 1976.

Morton Corn,
Assistant Secretary of Labor.

Present Standard	Latest ANSI Standard	Comments
1910.211 DEFINITIONS	01.1-1975	For simplicity each current section of §1910.211 would be relocated to that section of Subpart O to which it applies. Comments are requested. As is demonstrated by §1910.211(a)(1), §1910.211(d)(45) and §1910.211(f)(8) there are many definitions for "point of operation." Comments and suggested definitions of "point of operation" are requested. Would one definition be sufficient? Comments and suggestions are solicited on whether additional terms need to be added to the definitions, such as combs (featherboards).
(a) As used in §§1910.213 and 1910.214 unless the context clerly requires otherwise, the following woodworking machinery terms shall have the meaning prescribed in this paragraph.		
(1) "Point of operations" means that point at which cutting, shaping, boring, or forming is accomplished upon the stock.	Point of operation. The term "point of operation" shall be understood to mean that point at which cutting, shaping, boring, or forming is accomplished upon the stock.	
(2) "Push stick" means a narrow strip of wood or other soft material with a notch cut into one end and which is used to push short pieces of material through saws.	Push stick. The term "push stick" means a narrow strip wood or other soft material with a notch cut into one end and which is used to push short pieces of material through saws.	

Present Standard	Latest ANSI Standard	Comments
1910.211	01.1-1975	
(3) "Block" means a short block of wood, provided with a handle similar to that of a plane and a shoulder at the rear end, which is used for pushing short stock over revolving cutters.	Push block. The term "push block" shall mean a short block of wood, provided with a handle similar to that of a plane and a shoulder at the rear end, which is used for pushing short stock over revolving cutters. (See A3 of the Appendix.)	
(b) As used in §1910.215 unless the context clearly requires otherwise, the following abrasive wheel machinery terms shall have the meanings prescribed in this paragraph.		(b) Comments and suggestions are requested as to the adequacy of the terms.
(1) "Type 1 straight wheels" means wheels having diameter, thickness, and hole size dimensions, and they should be used only on the periphery. Type 1 wheels shall be mounted between flanges. LIMITATION: Hole dimension (H) should not be greater than two-thirds of wheel diameter dimension (D) for precision, cylindrical, centerless, or surface grinding applications. Maximum hole size for all other applications should not exceed one-half wheel diameter. **Figure No. 0-1** TYPE 1 STRAIGHT WHEELS  *Type 1 — Straight Wheel* *Peripheral grinding wheel having a diameter, thickness and hole.*		(1) Tentative ANSI draft B7.1-1976 prepared by the Technical Committee for B7 (Tentative ANSI B7.1) proposes that this definition be changed to read: Type 1 straight wheels have diameter, thickness and hole size dimensions and should be used on the periphery. This does not preclude their use for applications such as shoulder and form grinding where it is recognized a limited amount of side grinding is performed. Extreme caution should be exercised not to use excessive side pressure. Type 1 wheels shall be mounted between flanges. Comments and suggestions are requested on whether these wheels could be used for side grinding.

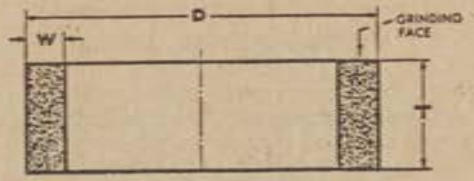
Present Standard	Latest ANSI Standard	Comments
1910.211	01.1-1975	

(2) "Type 2 cylinder wheels" means wheels having diameter, wheel thickness, and rim thickness dimensions. Grinding is performed on the rim face only, dimension W. Cylinder wheels may be plain, plate mounted, inserted nut, or of the projecting stud type.

LIMITATION: Rim height, T dimension, is generally equal to or greater than rim thickness, W dimension.

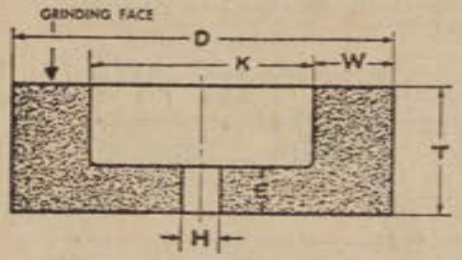
Figure No. 0-2

TYPE 2 CYLINDER WHEELS



Type 2 — Cylinder Wheel
Side grinding wheel having a diameter, thickness and wall—wheel is mounted on the diameter.

(3) "Type 6 straight cup wheels" means wheels having diameter, thickness, hole size, rim thickness, and back thickness dimensions. Grinding is always performed on rim face, W dimension.

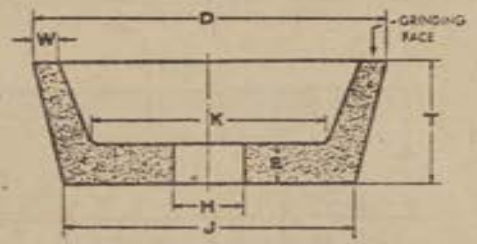
Present Standard	Latest ANSI Standard	Comments
1910.211 LIMITATION: Minimum back thickness, E dimension, should not be less than one-fourth T dimension. In addition, when unthreaded hole wheels are specified, the inside flat, K dimension, must be large enough to accommodate a suitable flange. **Figure No. 0-3** TYPE 6 STRAIGHT CUP WHEELS  *Type 6 — Straight-cup Wheel* *Side grinding wheel having a diameter, thickness and hole with one side straight or flat and the opposite side recessed. This type, however, differs from Type 5 in that the grinding is performed on the wall of the abrasive created by the difference between the diameter of the recess and the outside diameter of the wheel. Therefore, the wall dimension "W" takes precedence over the diameter of the recess as an essential intermediate dimension to describe this shape type.*	01.1-1975	

Present Standard	Latest ANSI Standard	Comments
1910.211	01.1-1975	

(4) "Type 11 flaring cup wheels" mean wheels having double diameter dimensions D and J, and in addition have thickness, hole size, rim and back thickness dimensions. Grinding is always performed on rim face, W dimension. Type 11 wheels are subject to all limitations of use and mounting listed for type 6 straight cup wheels definition.

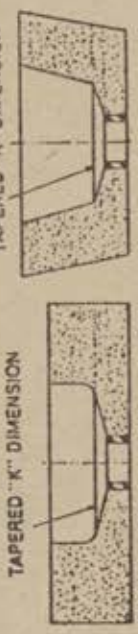
LIMITATION: Minimum back thickness, E dimension, should not be less than one-fourth T dimension. In addition, when unthreaded hole wheels are specified the inside flat, K dimension, shall be large enough to accommodate a suitable flange.

Figure No. 0-4
TYPE 11 FLARING CUP WHEELS



Type 11 — Flaring-cup Wheel
Side grinding wheel having a wall flared or tapered outward from the back. Wall thickness at the back is normally greater than at the grinding face (W).

Present Standard	Latest ANSI Standard	Comments
1910.211 (5) "Modified types 6 and 11 wheels (terrazzo)" mean some type 6 and 11 cup wheels used in the terrazzo trade having tapered K dimensions to match a special tapered flange furnished by the machine builder. LIMITATION: These wheels shall be mounted only with a special tapered flange.	01.1-1975	

Present Standard	Latest ANSI Standard	Comments
1910.211 Figure No. O-5 Type 6& 11 Wheels (Terrazzo)  Typical examples of modified types 6 and 11 wheels (terrazzo) showing tapered K dimensions.		

Present Standard	Latest ANSI Standard	Comments
1910.211	01.1-1975	
(6) Types 27 and 28 depressed center wheels" mean wheels having diameter, thickness, and hole size dimensions. Both types are reinforced organic bonded wheels having offset hubs which permit side and peripheral grinding operations without interference with the mounting. Type 27 wheels are manufactured with flat grinding rims permitting notching and cutting operations. Type 28 wheels have saucer shaped grinding rims.		(6) Tentative ANSI B7.1 proposes that this definition be changed to read: Type 27 and 28, depressed center wheels, have diameter, thickness and hole size dimensions. Both types are reinforced, organic bonded wheels having depressed center which permit grinding without interference with the mounting. Type 27 wheels are manufactured with flat grinding rims or faces and are designed for peripheral grinding, including small cutting-off and shallow notching operations. When grinding masonry and concrete surfaces such as ceilings and walls, they may be used flat. Such wheels have deeper than normal depressed centers for flat blending. Type 28 wheels have saucer-shaper grinding rims and are designed for corner grinding and side grinding, and shall not be used for cutting-off or notching operations. Comments are requested.

Present Standard	Latest ANSI Standard	Comments
1910.211 (i) Limitations: Special supporting, back adapter and inside flange nuts are required for the proper mounting of these types of wheels subject to limitations of §1910.215(c)(4)(i) and (ii). (ii) Mounts which are affixed to the wheel by the manufacturer may not require an inside nut and shall not be reused. (7) "Type 27A depressed center, cutting-off wheels" means wheel having diameter, thickness, and hole size dimensions. They are reinforced, organic bonded, offset hub type wheels, usually 16 inches diameter and larger, specially designed for use on cutting-off machines where mounting nut or outer flange interference cannot be tolerated. LIMITATIONS: See §1910.215(c)(1). (8) "Surface feet per minute" (s.f.p.m.) means the distance in feet any one abrasive grain on the peripheral surface of a grinding wheel travels in 1 minute. Surface Feet Per Minute= $\frac{3.1416 \times \text{diameter in inches} \times \text{r.p.m.}}{12}$ or .262 X diameter in inches X r.p.m.		

Present Standard	Latest ANSI Standard	Comments
1910.211 Examples: (a) 24-inch diameter wheel, 1,000 revolutions per minute. Surface feet per minute .262 X 1,000 = 6,288 s.f.p.m. (b) 12-inch diameter wheel, 1,000 revolutions per minute. Surface feet per minute .262 X 12 X 1,000 = 3,144 s.f.p.m. (9) "Flanges" means collars, discs or plates between which wheels are mounted and are referred to as adaptor, sleeve, or back up type. See paragraph (c) of §1910.215 for full description. (10) "Snagging" means grinding which removes relatively large amounts of material without regard to close tolerance or surface finish requirements. (11) "Off-hand grinding" means the grinding of any material or part which is held in the operator's hand. (12) "Safety guard" means an enclosure designed to restrain the pieces of the grinding wheel and furnish all possible protection in the event that the wheel is broken in operation. See paragraph (b) of §1910.215.		(b)(9) Tentative ANSI B7.1 proposes that "or back up type" be changed to "straight relieved or straight unrelieved types" for clarity.

Present Standard	Latest ANSI Standard	Comments
1910.211 (13) "Cutting off wheels" mean wheels having diameter thickness and hole size dimensions and are subject to all limitations of mounting and use listed for type 1 wheels, the definition in sub-paragraph (1) of this paragraph and paragraph (d) of §1910.215. They may be steel centered, diamond abrasive or organic bonded abrasive of the plain or reinforced type. (i) LIMITATION: Cutting off wheels are recommended only for use on specially designed and fully guarded machines and are subject to the following maximum thickness and hole size limitations. (ii) Maximum hole size for cutting-off wheels should not be larger than 1/4-wheel diameter.		

Present Standard	Latest ANSI Standard	Comments
1910.211 (14) "Abrasive wheel" means a cutting tool consisting of abrasive grains held together by organic or inorganic bonds. Diamond and reinforced wheels are included. (15) "Organic wheels" means wheels which are bonded by means of an organic material such as resin, rubber, shellac, or other similar bonding agent. (16) "Inorganic wheels" means wheels which are bonded by means of inorganic material such as clay, glass, procelain, sodium silicate, magnesium oxychloride, or metal. Wheels bonded with clay, glass, porcelain or related ceramic materials are characterized as "vitrified bonded wheels." (c) As used in §1910.216, unless the context clearly requires otherwise, the following mills and calendars in the rubber and plastic industries terms shall have the meaninga prescribed in this paragraph. (1) "Bite" means the nip point between any two inrunning rolls. (2) "Calender" means a machine equipped with two or more metal rolls revolving in opposite directions and used for continuously sheeting		(c) The existing definitions related to §1910.216 have not generated significant comment.

Present Standard	Latest ANSI Standard	Comments
1910.211 or plying up rubber and plastics compounds and for frictioning or coating materials with rubber and plastics compounds. (3) "Mill" means a machine consisting of two adjacent metal rolls, set horizontally, which revolve in opposite direction (i.e., toward each other as viewed from above) used for the mechanical working of rubber and plastics compounds.		

Present Standard	Latest ANSI Standard	Comments
1910.211		The ANSI B11.1 standard committee draft dated January 21, 1974, revised definitions to make them clearer and more easily understood. All definitions changed by the Committee are indicated by underlined numerals in column 1. Comments are solicited on the need to change certain definitions to make them easier for persons to understand and to correct any other inadequacies or errors. Are additional definitions needed such as definitions of: operator, type A gate or mechanical power press? 2.30 Operator (Tentative B11.1 revision) The word operator means any individual performing production work on the mechanical power press machine. 2.8.2.1 Type A Gate or Movable Barrier Device (Tentative B11.1 revision) The words Type A gate or movable barrier device mean a movable barrier arranged to enclose the point of operation before the press stroke can be started, and which, once closed, is arranged to remain closed while the clutch is engaged or slide motion exists.
(d) As used in §1910.217, unless the context clearly requires otherwise, the following power press terms shall have the meaning prescribed in this paragraph.		

Present Standard	Latest ANSI Standard	Comments
1910.211 (1) "Antirepeat" means the part of the clutch/brake control system designed to limit the press to a single stroke if the tripping means is held operated. Antirepeat requires release of all tripping mechanisms before another stroke can be initiated. "Antirepeat" is also called single stroke reset or reset circuit. (2) "Brake" means the mechanism used on a mechanical power press to stop and/or hold the crankshaft, either directly or through a gear train, when the clutch is disengaged. (3) "Bolster plate" means the plate attached to the top of the bed of the press having drilled holes or T-slots for attaching the lower die or die shoe. (4) "Clutch" means the coupling mechanism used on a mechanical power press to couple the flywheel to the crankshaft, either directly or through a gear train. (5) "Full revolution clutch" means a type of clutch that, when tripped, cannot be disengaged until the crankshaft has completed a full revolution and the press slide a full stroke.		Comments and suggestions are solicited on the need to change the definitions for full revolution clutch and part revolution clutch to aid users in following the specific requirements which may differ depending on the type of clutch.

Present Standard	Latest ANSI Standard	Comments
1910.211		
		2.4.1 Full Revolution Clutch (Tentative B11.1 revision) The words full revolution clutch mean a type of clutch that, when tripped, cannot be disengaged until the drive mechanism (usually a crankshaft) has completed a full revolution and the slide a full stroke.
(6) "Part revolution clutch" means a type of clutch that can be disengaged at any point before the crankshaft has completed a full revolution and the press slide a full stroke.		2.4.2 Part Revolution Clutch (Tentative B11.1 revision) The words part revolution clutch mean a type of clutch that can be disengaged at any point before the drive mechanism (usually a crankshaft) has completed a full revolution and the slide a full stroke.
(7) "Direct drive" means the type of driving arrangement wherein no clutch is used; coupling and decoupling of the driving torque is accomplished by energization and deenergization of a motor. Even though not employing a clutch, direct drives match the operational characteristics of "part revolution clutches" because the driving power may be disengaged during the stroke of the press.		
(8) "Concurrent" means acting in conjunction, and is used to describe a situation wherein two or more controls exist in an operated condition at the same time.		(8) Comments and suggestions are invited on the need to improve the definition of "concurrent" to prevent confusion with "simultaneous" which is not defined. Two hand trips and controls are required to be operated concurrently not simultaneously.

Present Standard	Latest ANSI Standard	Comments
1910.211		E2.5 Concurrent (Tentative B11.1 revision explanation) Specifically, as applied to the operation of run buttons or inch controls, the use of the word concurrent means that the clutch will be activated after each hand of the operator is holding a control in the operated position. The use of the word concurrent is intended to exclude any inference that a simultaneous moment of actuation must exist between the operations of the individual two hand controls.
(9) "Continuous" means uninterrupted multiple strokes of the slide without intervening stops (or other clutch control action) at the end of individual strokes. (10) "Counterbalance" means the mechanism that is used to balance or support the weight of the connecting rods, slide, and slide attachments. (11) "Device" means a press control or attachment that: (i) Restrains the operator from inadvertently reaching into the point of operation, or (ii) Prevents normal press operation if the operator's hands are inadvertently within the point of operation, or		

Present Standard	Latest ANSI Standard	Comments
1910.211 (111) Automatically withdraws the operator's hands if the operator's hands are inadvertently within the point of operation as the dies close. (12) "Presence sensing device" means a device designed, constructed and arranged to create a sensing field or area and to deactivate the clutch control of the press when an operator's hand or any other parts of his body is within such field or area. (13) "Gate or movable barrier device" means a movable barrier arranged to enclose the point of operation before the press stroke can be started. (14) "Holdout or restraint device" means a mechanism, including attachments for operator's hands, that when anchored and adjusted prevent the operator's hands from entering the point of operation. (15) "Pull-out device" means a mechanism attached to the operator's hands and connected to the upper die or slide of the press, that is designed, when properly adjusted, to withdraw the operator's hands as the dies close, if the operator's hands are inadvertently within the point of operation.		(13) Gate or movable barrier devices are now classified as Type A and Type B. Should the different classifications be the subject of new definitions in addition to the description given in paragraph (c)? (15) The current definition of pull-out has resulted in the granting of two variances for pull-outs not connected to the upper die or slide. Comments are solicited on the need to change the definition to allow pull-outs connected to other parts of the press or operated by a separately powered linkage. Should a new term be used to identify safeguards used to remove operators hands when they are powered by other than the slide or the die?

Present Standard	Latest ANSI Standard	Comments
1910.211 (16) "Sweep device" means a single or double arm (rod) attached to the upper die or slide of the press and designed to move the operator's hands to a safe position as the dies close, if the operator's hands are inadvertently within the point of operation. (17) "Two hand control device" means a two hand trip that further requires concurrent pressure from both hands of the operator during a substantial part of the die-closing portion of the stroke of the press. (18) "Die" means the tooling used in a press for cutting or forming material. An upper and a lower die make a complete set. (19) "Die builder" means any person who builds dies for power presses. (20) "Die set" means a tool holder held in alignment by guide posts and bushings and consisting of a lower shoe, an upper shoe or punch holder, and guide posts and bushings.		2.9 Die The word die means the complete (or a portion of) tooling component used for cutting, forming or assembling material within its point of operation. This tooling component is used with the press and other components to comprise a complete machine.

Present Standard	Latest ANSI Standard	Comments
1910.211 (21) "Die setter" means an individual who places or removes dies in or from mechanical power presses, and who, as a part of his duties, makes the necessary adjustments to cause the tooling to function properly and safely. (22) "Die setting" means the process of placing or removing dies in or from mechanical power press, and the process of adjusting the dies, other tooling and safeguarding means to cause them to function properly and safely. (23) "Die shoe" means a plate or block upon which a die holder is mounted. A die shoe functions primarily as a base for the complete die assembly, and, when used, is bolted or clamped to the bolster plate or the face of slide. (24) "Ejector" means a mechanism for removing work or material from between the dies. (25) "Face of slide" means the bottom surface of the slide to which the punch or upper die is generally attached. (26) "Feeding" means the process of placing or removing material within or from the point of operation.		

Present Standard	Latest ANSI Standard	Comments
1910.211 (27) "Automatic feeding" means feeding wherein the material or part being processed is placed within or removed from the point of operation by a method or means not requiring action by an operator on each stroke of the press. (28) "Semiautomatic feeding" means feeding wherein the material or part being processed is placed within or removed from point of operation by an auxiliary means controlled by operator on each stroke of the press. (29) "Manual feeding" means feeding wherein the material or part being processed is handled by the operator on each stroke of the press. (30) "Foot control" means the foot operated control mechanism designed to be used with a clutch or clutch/brake control system. (31) "Foot pedal" means the foot operated lever designed to operate the mechanical linkage that trips a full revolution clutch. (32) "Guard" means a barrier that prevents entry of the operator's hands or fingers into the point of operation.		

Present Standard	Latest ANSI Standard	Comments
1910.211 (33) "Die enclosure guard" means an enclosure attached to the die shoe or stripper, or both, in a fixed position. (34) "Fixed barrier guard" means a die space barrier attached to the press frame. (35) "Interlocked press barrier guard" means a barrier attached to the press frame and interlocked so that the press stroke cannot be started normally unless the guard itself, or its hinged or movable sections, enclose the point of operation. (36) "Adjustable barrier guard" means a barrier requiring adjustment for each job or die setup. (37) "Guide post" means the pin attached to the upper or lower die shoe, operating within the bushing on the opposing die shoe, to maintain the alignment of the upper and lower dies. (38) "Hand feeding tool" means any hand held tool designed for placing or removing material or parts to be processed within or from the point of operation.		2.21.2 Fixed Barrier Guard (Tentative B11.1 revision) The words fixed barrier guard mean a die space barrier attached to the press component frame or bolster plate.

Present Standard	Latest ANSI Standard	Comments
1910.211		
(39) "Inch" means an intermittent motion imparted to the slide (on machines using part revolution clutches) by momentary operation of the "Inch" operating means. Operation of the "Inch" operating means engages the driving clutch so that a small portion of one stroke or indefinite stroking can occur, depending upon the length of time the "Inch" operating means is held operated. "Inch" is a function used by the die setter for setup of dies and tooling, but is not intended for use during production operations by the operator.		(39) The definition of "inch" describes its use in die setting and infers prohibition of use by operators starting a new coil on automatic feed operations. Comment is sought on the need to change the definition to recognize use for starting a coil or other than die setter use.
(40) "Jog" means an intermittent motion imparted to the slide by momentary operation of the device motor, after the clutch is engaged with the flywheel at rest.		
(41) "Knockout" means a mechanism for releasing material from either die.		
(42) "Liftout" means the mechanism also known as knockout.		
(43) "Operator's station" means the complete complement of controls used by or available to an operator on a given operation for stroking the press.		(43) Comments are invited on the possible need to define the term "operator" for purposes of §1910.217. 2.30 Operator The word operator means any individual performing production work on the mechanical power press machine.

Present Standard	Latest ANSI Standard	Comments
1910.211 (44) "Pinch point" means any point other than the point of operation at which it is possible for a part of the body to be caught between the moving parts of a press or auxiliary equipment, or between moving and stationary parts of a press or auxiliary equipment or between the material and moving part or parts of the press of auxiliary equipment. (45) "Point of operation" means the area of the press where material is actually positioned and work is being performed during any process such as shearing, punching, forming, or assembling. (46) "Press" means a mechanically powered machine that shears, punches, forms, or assembles metal or other material by means of cutting, shaping, or combination dies attached to slides. A press consists of a stationary bed or anvil, and a slide (or slides)		(45) Comments are solicited on the need to change the definition of point of operation to clarify the meaning which is critical when measuring safety distance. The point of operation is relative to the tooling (die) rather than the press bolster or slide. 2.35 Point of Operation (Tentative B11.1 revision) The words point of operation means the area of the die (tooling component) where material is actually positioned and work is being performed during any process such as cutting, forming or assembling. (46) Comments and suggestions are invited on the need to further define press to mean mechanical power press and not press brakes, shears, ironworkers, etc. 2.36 Press or Mechanical Power Press (Tentative B11.1 revision)

Present Standard	Latest ANSI Standard	Comments
1910.211 having a controlled reciprocating motion toward and away from the bed surface, the slide being guided in a definite path by the frame of the press.		2.36.1 Press Component, or Mechanical Power Press Component The words mechanical power press component mean the basic press (component) of the mechanical power press machine; that portion devoid of the tooling component, the safeguarding component(s) and auxiliary feeding components. 2.36.2 Press Machine or Mechanical Power Press Machine The words mechanical power press machine mean the combination of the press component, tooling component, safeguarding component(s) and feeding components; thus a complete machine existing in a state capable of processing the specific job requirement for which it is outfitted by the user.
(47) "Repeat" means an unintended or unexpected successive stroke of the press resulting from a malfunction. (48) "Safety block" means a prop that, when inserted between the upper and lower dies or between the bolster plate and the face of the slide, prevents the slide from falling of its own deadweight. (49) "Single stroke" means one complete stroke of the slide, usually initiated from a full open (or up) position, followed by closing (or down), and then a return to the full open position.		

Present Standard	Latest ANSI Standard	Comments
1910.211 (50) "Single stroke mechanism" means an arrangement used on a full revolution clutch to limit the travel of the slide to one complete stroke at each engagement of the clutch. (51) "Slide" means the main reciprocating press member. A slide is also called a ram, plunger, or platen. (52) "Stop control" means an operator control designed to immediately deactivate the clutch control and activate the brake to stop slide motion. (53) "Stripper" means a mechanism or die part for removing the parts or material from the punch. (54) "Stroking selector" means the part of the clutch/brake control that determines the type of stroking when the operating means is actuated. The stroking selector generally includes positions for "Off" (Clutch Control), "Inch," "Single Stroke," and "Continuous" (when Continuous is furnished). (55) "Trip or (tripping)" means activation of the clutch to "run" the press.		2.46 Single Stroke Mechanism (Tentative B11.1 revision) The words single stroke mechanism mean a mechanical arrangement within the clutch assembly designed to provide single stroke capability.

Present Standard	Latest ANSI Standard	Comments
1910.211 (56) "Turnover bar" means a bar used in die setting to manually turn the crankshaft of the press. (57) "Two-hand trip" means a clutch actuating means requiring the concurrent use of both hands of the operator to trip the press. (58) "Unitized tooling" means a type of die in which the upper and lower members are incorporated into a selfcontained unit so arranged as to hold the die members in alignment. (59) "Control system" means sensors, manual input and mode selection elements, interlocking and decision-making circuitry, and output elements to the press operating mechanism. (60) "Brake monitor" means a sensor designed, constructed, and arranged to monitor the effectiveness of the press braking system.		

Present Standard	Latest ANSI Standard	Comments
1910.211	B24.1-1971 (R-1975)	
(e) As used in §1910.218, unless, the context clearly requires otherwise, the following forging and hot metal terms shall have the meaning prescribed in this paragraph.		(e) Comments and suggestions are requested as to whether additional terms should be included in the definitions.
(1) "Forging" means the product of work on metal formed to a desired shape by impact or pressure in hammers, forging machines (upsetters), presses, rolls, and related forming equipment. Forging hammers, counter-blow equipment and high-energy-rate forging machines impart impact to the workpiece, while most other types of forging equipment impart squeeze pressure in shaping the stock. Some metals can be forged at room temperature, but the majority of metals are made more plastic for forging by heating.		
(2) "Open frame hammers (or blacksmith hammers)" means hammers used primarily for the shaping of forgings by means of impact with flat dies. Open frame hammers generally are so constructed that the anvil assembly is separate from the operating mechanism and machine supports; it rests on its own independent foundation. Certain exceptions are forging hammers made	2.3.1 Open Frame Hammers (or Blacksmith Hammers) Open frame hammers are used primarily for the shaping for forgings by means of impact with flat dies. Open frame hammers generally are so constructed that the anvil assembly is separate from the operating mechanism and and machine supports; it rests on its own independent foundation. Certain exceptions	

Present Standard	Latest ANSI Standard	Comments
1910.211	B24.1-1971 (R-1975)	
with frame mounted on the anvil; e.g., the smaller, single-frame hammers are usually made with the anvil and frame in one piece.	are forging hammers made with frame mounted on the anvil; for example, the smaller, single-frame hammers are usually made with the anvil and frame in one piece.	
(3) "Steam hammers" means a type of drop hammer where the ram is raised for each stroke by a double-action steam cylinder and the energy delivered to the workpiece is supplied by the velocity and weight of the ram and attached upper die driven downward by steam pressure. Energy delivered during each stroke may be varied.	2.3.2 Steam hammers A type of drop hammer where the ram is raised for each stroke by a double-action steam cylinder and the energy delivered to the workpiece is supplied by the velocity and weight of the ram and attached upper die driven downward by steam pressure. Energy delivered during each stroke may be varied.	
(4) "Gravity hammers" means a class of forging hammer wherein energy for forging is obtained by the mass and velocity of a freely falling ram and the attached upper die. Examples: board hammers and air-lift hammers.	2.4 Gravity hammers A class of forging hammer wherein energy for forging is obtained by the mass and velocity of a freely falling ram and the attached upper die. Examples: board hammers and air-lift hammers.	
(5) "Forging presses" mean a class of forging equipment wherein the shaping of metal between dies is performed by mechanical or hydraulic pressure, and usually is accomplished with a single workstroke of the press for each die station.	2.5 Forging Presses A class of forging equipment wherein the shaping of metal between dies is performed by mechanical or hydraulic pressure, and usually is accomplished with a single work-stroke of the press for each die station.	
(6) "Trimming Presses" mean a class of auxiliary forging equipment which removes flash or excess metal from a forging. This trimming operation can	2.6 Trimming Presses A class of auxiliary forging equipment which removes flash or excess metal from a forging.	

Present Standard	Latest ANSI Standard	Comments
1910.211	B24.1-1971 (R-1975)	
also be done cold, as can coining, a product sizing operation.	This trimming operation can also be done cold, as can coining, a product sizing operation.	
(7) "High-energy-rate" forging machines" mean a class of forging equipment wherein high ram velocities resulting from the sudden release of a compressed gas against a free piston impart impact to the workpiece.	2.8 High-Energy-Rate Forging Machines A class of forging equipment wherein high ram velocities resulting from the sudden release of a compressed gas against a free piston impart impact to the workpiece.	
(8) "Forging rolls" mean a class of auxiliary forging equipment wherein stock is shaped between power driven rolls bearing contoured dies. Usually used for preforming, roll forging is often employed to reduce thickness and increase length of stock.	2.9.1 Forging Rolls A class of auxiliary forging equipment wherein stock is shaped between power driven rolls bearing contoured dies. Usually used for preforming, roll forging is often employed to reduce thickness and increase length of stock.	
(9) "Ring rolls" means a class for forging equipment used for shaping weldless rings from pierced discs or thick-walled, ring-shaped blanks between rolls which control wall thickness, ring diameter, height and contour.	2.9.2 Ring Rolls A class for forging equipment used for shaping weldless rings from pierced discs or thick-walled, ring-shaped blanks between rolls which control wall thickness, ring diameter, height, and contour.	
(10) "Bolt-headers" mean the same as an upsetter or forging machine except that the diameter of stock fed into the machine is much smaller, i.e., commonly three-fourths inch or less.	2.9.3 Bolt-Headers Same as an upsetter or forging machines except that the diameter of stock fed into the machine is much smaller, that is, commonly 3/4 inch or less.	

Present Standard	Latest ANSI Standard	Comments
1910.211 (11) Rivet making machines mean the same as upsetters and boltheaders when producing rivets with stock diameter of 1-inch or more. Rivet making with less than 1-inch diameter is usually a cold forging operation, and therefore not included in this subpart. (12) Upsetters (or forging machines, or headers) type of forging equipment, related to the mechanical press, in which the main forming energy is applied horizontally to the workpieces which is gripped and held by prior action of the dies.	B24.1-1971 (R-1975) 2.9.4 Rivet-Making Machines Same as upsetters and bolt-headers when producing rivets with stock diameter of 1 inch or more. Rivet making with less than 1-inch diameter is usually a cold forging operation, and therefore not included in this standard. 2.7 Upsetters (or Forging Machines, or Headers) A type of forging equipment, related to the mechanical press, in which the main forming energy is applied horizontally to the workpiece which is gripped and held by prior action of the dies.	

Present Standard	Latest ANSI Standard	Comments
1910.211	B15.1-1972	
(f) As used in §1910.219, unless, the context clearly requires otherwise, the following mechanical power-transmission guarding terms shall have the meaning prescribed in this paragraph.		(f) Comments and suggestions are requested as to whether additional terms need to be included in the definitions such as gears.
(1) "Belts" include all power transmission belts, such as flat belts, round belts, V-belts, etc., unless otherwise specified.	6. Definitions Belts. The term "belts" is to include all power transmission belts, such as flat belts, round belts, V-belts, etc., unless otherwise specified.	
(2) "Belt shifter" means a device for mechanically shifting belts from tight to loose pulleys or vice versa, or for shifting belts on cones of speed pulleys.		(f)(2),(3) ANSI discontinues the use of these terms because line shafting was not a part of the 1972 edition. Are these terms applicable to present day usage?
(3) "Belt pole" (sometimes called a "belt shipper" or "shipper pole") means a device used in shifting belts on and off fixed pulleys on line or countershaft where there are no loose pulleys.		
(4) "Exposed to contact" means that the location of an object is such that a person is likely to come into contact with it and be injured.	Exposed to Contact. The term "exposed to contact" shall be interpreted as meaning that a person is likely to come into contact with it and be injured.	
(5) "Flywheels" include flywheels, balance wheels, and flywheel pulleys mounted and revolving on crankshaft of engine or other shafting.	Flywheels. The term "flywheel" is to include flywheels, balance wheels, and flywheel pulleys mounted and revolving on crank shaft of engine or other shafting.	

Present Standard	Latest ANSI Standard	Comments
1910.211	B15.1-1972	
(6) "Maintenance runway" means any permanent runway or platform used for oiling, maintenance, running adjustment, or repair work, but not for passageway.	Maintenance Runway. "Runway" shall mean any permanent runway or platform used for oiling, maintenance, adjustment, or repair work, but not for passageway.	(f)(6) These runways obviously are used as a passageway. Should it be clarified to mean normal passage as contrasted to passage for the uses listed?
(7) "Nip-point belt and pulley guard" means a device which encloses the pulley and is provided with rounded or rolled edge slots through which the belt passes.		(f)(7) If belts are guarded with the pulley, is this terminology appropriate to §1910.219?
(8) "Point of operation" means that point at which cutting, shaping, or forming is accomplished upon the stock and shall include such other points as may offer a hazard to the operator in inserting or manipulating the stock in the operation of the machine.	Point of Operation. The term "point of operation" shall be understood to mean that point at which cutting, moving, forming, or other functional change is accomplished upon the processed material.	(f)(8) Many different opinions exist as to proper definition of a point of operation. What is the common and accepted definition?
(9) "Prime movers" include steam, gas, oil and air engines, motors, steam and hydraulic turbines, and other equipment used as a source of power.	Prime Mover. The term "prime movers" as used in this standard is to include equipment used as the primary source of power, such as engines, motors and turbines.	
(10) "Sheaves" mean grooved pulleys, and shall be so classified unless used as flywheels.	Sheaves. "Sheaves" shall be considered as grooved pulleys, and shall be so classified unless used as flywheels.	
	Gears. A set or train of gears comprises two or more intermeshing gears.	Comments are solicited as to whether the remaining ANSI definitions beginning with "Gears" are accurate and should they become a a part of §1910.219?
	Guarded. "Guarded" means shielded, fenced, enclosed or otherwise protected by means of enclosures, covers, shield guards, trough guards, railing guards, or by nature of location or position so as to remove foreseeable risk of personal injury from accidental contact or approach or failure of component.	

Present Standard	Latest ANSI Standard	Comments
1910.211.	B15.1-1972 Securely Fastened. The term "securely fastened" shall mean that the safety device or object referred to shall be so secured in place that it cannot be moved under normal or reasonably foreseeable conditions or circumstances. Shall. The word "shall" is to be understood as mandatory. Shear Point. The immediate area where two or more machine elements pass in close contact, creating a shearing action, is defined as "shear point." The elements may be in any form of motion, or one may be at rest. (See Appendix Paragraphs A2.2.2 and A2.2.3.) Should, The word "should" is to be understood as advisory. Sprockets. A set of sprockets comprises two or more sprockets carrying one or more chains.	

Present Standard	Latest ANSI Standard	Comments
1910.212 GENERAL REQUIREMENTS FOR ALL MACHINES	ANSI has no equivalent standard, performance language oriented or otherwise, intended to cover and apply to all machinery. Therefore, none of the paragraphs presented in this document show comparison data.	
Scope - No equivalent		Scope - It has been suggested that §1910.212 be modified to include a scope. Would expanding the section to incorporate a scope help to clarify the intent? Should the scope identify machine hazards? What other areas should the scope cover? Should we exclude coverage for portable powered tools? It has been suggested that a paragraph headed "General Requirements for All Machines" be included. Additional criteria would be established for the following: 1. Design and construction of new equipment 2. Modification of existing equipment 3. Operator machine controls 4. Machine maintenance and inspection 5. Operator training.
Definitions - See §1910.211		Definitions - The current regulation does not identify the definitions in §1910.211 which address §1910.212. Those definitions appropriate for §1910.212 would be included.
(a) Machine guarding. (1) Types of guarding. One or more methods of machine guarding shall be provided to protect the operator and other employees in the machine area from hazards		(a)(1) Comments are solicited on the desirability of clarifying the fact that guards and devices are separate categories of safeguarding.

Present Standard	Latest ANSI Standard	Comments
1910.212 such as those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks. Examples of guarding methods are--barrier guards, two-hand tripping devices, electronic safety devices, etc.		Should this section also identify those hazards relating to inherently hazardous materials? Ex: Sharp or pointed machine parts or work pieces, extremely hot or cold machine parts or work pieces. Should the hazards of a machine at rest be addressed by lockout and tagging rules? Should the examples of machine guarding be clarified, expanded and defined in accordance with current technology? Should performance criteria be established for each safeguarding method? Comments and information are solicited for, but not limited to defining the terms and the relation of hazards to the use of safeguarding methods such as: 1. Shields 2. Interlocks 3. Guarding by location--machines and operators 4. Automatic devices (pull or push out) 5. Automatic or semi-automatic feed, stripping, or removal 6. Lockout 7. Barrier guards 8. Two-hand trip devices Do we need to differentiate between two-hand trip controls and two-hand controls? Should secondary safeguarding methods be identified as such and defined? Comments and information are solicited for the use of secondary safeguarding methods such as:

Present Standard	Latest ANSI Standard	Comments
1910.212		1. Awareness barrier or device 2. Special hand feed tools or devices 3. The use of safety blocks 4. Tag-out of equipment.
(2) General requirements for machine guards. Guards shall be affixed to the machine where possible and secured elsewhere if for any reasons attachment to the machine is not possible. The guard shall be such that it does not offer an accident hazard in itself.		(a)(2) Comments are solicited on the suggestion that OSHA incorporate the point of operation guard performance language as specified in §1910.217 paragraphs (c)(1)(i) and (ii) and (c)(2)(i)(a)-(f) and as specified for point of operation devices in paragraph (c)(3)(i)(a)-(g).
(3) Point of operation guarding. (i) Point of operation is the area on a machine where work is actually performed upon the material being processed. (ii) The point of operation of machines whose operation exposes an employee to injury, shall be guarded. The guarding device shall be in conformity with any appropriate standards therefore, or, in the absence of applicable specific standards, shall be so designed and constructed as to prevent the operator from having any part of his body in the danger zone during the operating cycle.		(a)(3)(ii) ANSI has petitioned OSHA to reference their machinery standards as guidelines to §1910.212 because §1910.212 does not specify how machines should be guarded. Should a list of industry consensus standards applicable to specific machines be developed and provided as a technical guide utilizing the work of ANSI or other organizations? Should Table O-10 in §1910.217, which sets forth the maximum permissible guard or barrier openings for mechanical power presses be applied to all machines? Should any exceptions be made?

Present Standard	Latest ANSI Standard	Comments
1910.212 (iii) Special handtools for placing and removing material shall be such as to permit easy handling of material without the operator placing a hand in the danger zone. Such tools shall not be in lieu of other guarding required by this section, but can only be used to supplement protection provided. (iv) The following are some of the machines which usually require point of operation guarding: (a) Guillotine cutters (b) Shears (c) Alligator shears (d) Power presses (e) Milling machines (f) Power saws (g) Jointers (h) Portable power tools (i) Forming rolls and calenders. (4) Barrels, containers, and drums. Revolving drums, barrels, and containers shall be guarded by an enclosure which is interlocked with the drive mechanism, so that the barrel, drum, or container cannot revolve unless the guard enclosure is in place.		(a)(3)(iii) Comments and suggestions are solicited on whether the use of special hand tools should be required where safeguarding is not feasible and hand tools are the only means of operator protection. Examples of such instances are requested. (a)(3)(iv) Comments are solicited on the content of this list of machines requiring point of operation guarding. Is there any reason to include portable powered tools since these are covered in Subpart P? Should the list be expanded to indicate the type of guarding used for each machine? If the applicable consensus standards are listed in (a)(3)(ii), which other machines should be listed in (a)(3)(iv)? (a)(4) Comments and information are solicited on the need to clarify this rule. What criteria can be applied to preclude application to a centrifuge or chemical (in drums) mixer?

Present Standard	Latest ANSI Standard	Comments
1910.212 (5) Exposure of blades. When the periphery of the blades of a fan is less than seven (7) feet above the floor or working level, the blades shall be guarded. The guard shall have openings no larger than one half (1/2) inch.		(a)(5) Comments have been received indicating confusion with the scope and interpretation for exposure of blades. It has also been noted that the 1/2 inch dimension is unnecessarily restrictive. Program directives have been issued to differentiate between employee confort cooling fans and process cooling fans in applying this standard and to allow the use of concentric rings and mesh guarding methods. Should (a)(5) limit application of the standard to direct ventilation and cooling of employees? Should the 1/2 inch dimension limiting the size of opening be replaced with tabled information relating the size of opening to the distance from the blade to provide more flexibility for application and employee protection? Examples of fans which should not be subject to this rule such as, transformer cooling fans, boiler forced draft fans, electric motor cooling fans, process air movers, are solicited. Should process fans be the subject of a separate standard? What injury data is available to justify a rule? Note: The Consumers Product Safety Commission has denied a petition for a fan guarding specification on the grounds that a problem does not exist.

Present Standard	Latest ANSI Standard	Comments
1910.212 (b) Anchoring fixed machinery. Machines designed for a fixed location shall be securely anchored to prevent walking or moving.		(b) Anchoring Fixed Machinery. Is the wording to describe the anchoring of fixed machinery too restrictive and does it inhibit current technology? Should "securely anchored" be replaced with "restrained to prevent movement" in order to take advantage of a machine's friction for utilizing such devices as, vibration isolation pads and mountings or suction cups to prevent movement? Should anchoring of machines be based on the hazards of being struck by material handling equipment or overhead cranes and hoist supporting work pieces? Design and Construction of New Equipment. Should the criteria for the design and construction of new equipment be specifically stated or should we refer to acceptable industry standards? Modification of Existing Equipment. What requirements as to modification of existing equipment should be specified? Operator Machine Controls. Can the hazards requiring specific types of operator machine controls be identified for all machines? Comments and information are solicited to identify the hazards and operating conditions which require controls to suit the following criteria:

Present Standard	Latest ANSI Standard	Comments
1910.212		1. Identification as to function and accessible location 2. Operating mode selection control and supervision 3. Protection from unintended operation 4. Emergency stop control criteria. Ex: For systems other than start/stop; when more than one operator or the point of operation hazard is involved; for manually feeding, removing or manipulating; for a machine operated by remote control or for a machine capable of operating in the continuous mode. What other conditions should be considered? Machine Inspection and Maintenance. Would machine inspection and maintenance criteria written in performance language and intended to cover all machines contribute significantly to reducing employee exposure to hazards? What criteria could be adopted? Operator Training. How can a requirement for employee training in hazard recognition and the safe care and operation of equipment be written to give uniform guidelines to employers and maximum protection to employees?

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	The appropriate definitions for this section found in §1910.211(a) would be included in §1910.213.
	1. General	
	1.1 Scope. Specifications for the safe installation, operation, and maintenance of woodworking machinery and accessory equipment, including cooperage and veneering operations, but excluding the manufacture of structural plywood.	1.1 Although the machinery unique to the structural plywood industry is included under general requirements for machine safeguarding the current OSHA standards do not specifically refer to this type of machinery. Comments and information are solicited on methods of safeguarding the operation of such machinery. It should be noted that the new ANSI standard specifically excludes the manufacture of structural plywood. Petitioners have suggested that the sawmill industry be specifically excluded from the woodworking standard provisions. Should cooperage be included in the scope as defined by ANSI or should it maintain the separate identity it now has in §1910.214? Is 1910.213 being used to address hazards not covered in 1910.265?
(a) Machine construction general. (1) Each machine shall be so constructed as to be free from sensible vibration when the largest size tool is mounted and run idle at full speed.	5. Machines and Equipment 5.1.1.2 Each machine shall be designed, constructed, and mounted in a manner that will eliminate hazardous vibration at any operating speed while using any tool designed for the machine.	(a)(1) Comments are solicited on methods to determine when a machine's vibration is indicative of a hazard.

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(2) Arbors and mandrels shall be constructed so as to have firm and secure bearing and be free from play.	5.1.1.3 Arbors and mandrels shall be constructed so as to have firm and secure bearing and shall be free from excessive end-play that would cause a condition hazardous to workers.	(a)(2) Comments are solicited to identify those conditions created by arbor and mandrel end-play which expose employees to hazards.
(3) The use of wooden bandsaw wheels other than those of commercial manufacture is prohibited.	5.1.1.4 Band saw wheels shall be designed and manufactured so that they will be capable of withstanding the strains imposed. Band wheels 7 inches or more in width shall have a minimum rim thickness of 5/8 inch if made of cast iron or 1/2 inch if of cast steel, except for a distance not to exceed 1 inch from either edge.	
(4) Any automatic cutoff saw that strokes continuously without the operator being able to control each stroke shall not be used.	5.1.1.5 Where employees are exposed to their hazards, automatic cutoff saws that stroke continuosuly, without the operator being able to control each stroke, shall not be used.	(a)(4) Comments and information are solicited to define those conditions under which employees are exposed to the hazards of continuously stroking, automatic cutoff saws when the operator does not have the ability to control each stroke.
(5) Saw frames or tables shall be constructed with lugs cast on the frame or with an equivalent means to limit the size of the saw blade that can be mounted, so as to avoid overspeed caused by mounting a saw larger than intended.	5.1.1.6 Saw frames shall be provided with permanent means to limit the size of the saw that can be mounted.	(a)(5) Comments and information are solicited to determine if a physical means to prevent the use of an oversize saw blade in a machine will control the hazards. What are the hazards? Is a hazard created with the use of too small a diameter saw blade?
(6) Circular saw fences shall be so constructed that they can be firmly secured to the table or table assembly without changing their alignment with the saw. For saws with tilting tables or	5.1.1.7 Fences, material guides, and spreaders shall be designed and constructed in a manner that allows them to be properly secured to the table or table assembly and to remain in alignment with	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
tilting arbors the fence shall be so constructed that it will remain in a line parallel with the saw, regardless of the angle of the saw with the table.	the cutting blade. Fences, material guides, and spreaders on cutting machines with tilting tables or tilting arbors shall also remain in alignment with the cutting blade in any position.	
(7) Circular saw gages shall be so constructed as to slide in grooves or tracks that are accurately machined, to insure exact alignment with the saw for all positions of the guide.	5.1.1.8 Grooves or tracks for sliding material guides shall be accurately machined parallel to ensure alignment with the blade for all positions of the guide.	
(8) Hinged saw tables shall be so constructed that the table can be firmly secured in any position and in true alignment with the saw.	5.1.1.9 Hinged or tilting tables shall be so constructed that the table can be firmly secured in the desired position and in alignment with the cutting tool.	
(9) All belts, pulleys, gears, shafts, and moving parts shall be guarded in accordance with the specific requirements of §1910.219.	5.1.2.1 Whenever possible, driving power for woodworking machinery shall be provided by individual motor or motors mounted on the machine, or on a separate base adjacent to the machine. All belts, pulleys, gears, shafts, and other moving parts shall be guarded in accordance with the specific requirements of American National Standard Safety Standard for Mechanical Power Transmission Apparatus, B15.1-1972.	
(10) It is recommended that each power-driven woodworking machine can be provided with a disconnect switch that can be locked in the off position.	5.1.2.3 Each power-driven woodworking machine shall be provided with a positive disconnect from the source of power, which can be secured in the "off" position.	(a)(10) Comments are solicited on whether mandatory lock-out should be required for all power driven woodworing machines.

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(11) The frames and all exposed, noncurrent-carrying metal parts of portable electric woodworking machinery operated at more than 90 volts to ground shall be grounded and other portable motors driving electric tools which are held in the hand while being operated shall be grounded if they operate at more than 90 volts to ground. The ground shall be provided through use of a separate ground wire and polarized plug and receptacle.	5.1.2.2 Electrically driven woodworking machinery shall be grounded in accordance with American National Standard National Electrical Code, C1-1971 (NFPA No. 70-1971). Note C-1-1971 has been superceded by C-1-1975.	(a)(11) Comments are solicited on the suggestions received by OSHA to revise (a)(11) as follows: 1. (a)(11) should cover non-portable woodworking machinery with reference to Part 1910, Subpart S (National Electric Code) to maintain consistency for the electrical grounding of all machines. 2. The requirements for portable electric woodworking machines should be moved to §1910.243, Subpart P which deals with portable power tools.
No equivalent	No equivalent	(a) A petition has been received requesting OSHA to draft mandatory requirements in paragraph (a) for a braking requirement to provide for the elimination of the hazards presented by a coasting saw blade. Comments and information are requested to specifically identify the hazards of a coasting saw blade, define the conditions under which they are present and to roughly approximate the design or performance criteria necessary to control exposure to the hazards.
No equivalent	5.2 Machine Guarding. It is recognized that the standards for guarding are not universally applicable to all operations. The standards given are those that are generally accepted in the industry. Since there are a number of situations not satisfactorily covered by these standards, the enforcing authority should exercise latitude in allowing the use of other devices.	5.2 A petitioner has requested that the provision of ANSI 01.1-1975 (5.2) be included in the OSHA regulations to allow other guarding devices providing equal protection and to encourage the development of new devices. Information and data are requested as to those situations which are not adequately covered by the present machine guarding standard. What other guarding devices would provide adequate employee protection?

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(12) For all circular saws where conditions are such that there is a possibility of contact with the portion of the saw either beneath or behind the table, that portion of the saw shall be covered with an exhaust hood, or, if no exhaust system is required with a guard that shall be so arranged as to prevent accidental contact with the saw.	6.1 Circular, Crosscut, and Swing Cutoff Saws, Ripsaws; and Resaws 6.1.1 Guarding of Saws Beneath and Behind Tables. Guarding beneath the table level should be provided so as to enclose the saw blade from unintended contact and to prevent contact with moving parts of the drive mechanism. The saw frame, motor (including a separately shipped motor), exhaust hood, or additional enclosures beneath the table may be considered as part of this guarding. If an open-bottom enclosure is used to guard the blade or other moving parts from contact, the depth of the enclosure shall be such that the plane of the bottom is 1 inch or more below the bottom of the saw blade with the blade in its lowest position.	(a)(12) Comments are solicited as to whether the generic term "circular saws" is sufficient to identify the variations of crosscut, swing cutoff, ripsaws and resaws.
(13) Revolving double arbor saws shall be fully guarded in accordance with all the requirements for circular crosscut saws or with all the requirements for circular rip-saws, according to the kind of saws mounted on the arbors.	6.1.4 Revolving Multiple Arbor Saws. Revolving multiple arbor saws shall be fully guarded in accordance with all the requirements of this section.	
(14) No saw, cutter head, or tool collar shall be placed or mounted on a machine arbor unless the tool has been accurately machined to size and shape to fit the arbor.	No equivalent	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(15) Combs (featherboards) or suitable jigs shall be provided at the workplace for use when a standard guard cannot be used, as in dadoing, grooving, jointing, moulding, and rabbeting.	No equivalent	
(b) Machine controls and equipment.	5.1.3 Machine Control	
(1) A mechanical or electrical power control shall be provided on each machine to make it possible for the operator to cut off the power from each machine without leaving his position at the point of operation.	5.1.3.1 Each machine, whether mechanically or electrically driven, shall be provided with a device that will make it possible for the operator to cut off the power to the machine without leaving his normal operating position.	
(2) On machines driven by belts and shafting, a locking-type belt shifter or an equivalent positive device shall be used.	5.1.3.2 On machines driven by belts and shafting, belt shifters shall be easily accessible, protected from accidental contact, and within reach of the operator. They shall be equipped with a locking device to prevent accidental shifting.	
(3) On applications where injury to the operator might result if motors were to restart after power failures, provision shall be made to prevent machines from automatically restarting upon restoration of power.	5.1.3.3 Electrically driven equipment shall be controlled with magnetic switches or other devices that will prevent automatic restarting of the machine after a power failure, if automatic restarting of the machine would create a hazard.	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
No equivalent	5.1.3.4 On equipment that uses steam, air, or hydraulic power, or a power source other than electric, the valves or power supply controls shall automatically be positioned to "off" when the source of power is interrupted, in order to prevent automatic restarting or completion of the cycle if automatic restarting of the machine would create a hazard.	5.1.3.4 This is a new requirement in the ANSI standard 01.1-1975 written to cover woodworking machines or tools powered by other than electricity. Comments and information are solicited as to whether these requirements provide sufficient guidance and employee protection. What are the problems in modifying existing equipment.
(4) Power controls and operating controls should be located within easy reach of the operator while he is at his regular work location, making it unnecessary for him to reach over the cutter to make adjustments. This does not apply to constant pressure controls used only for setup purposes.	5.1.3.5 Power controls and operating controls shall be located within easy reach of the operator while he is at his regular work location. They shall be positioned so as to make it unnecessary for him to reach over a hazardous area to actuate the control.	
(5) On each machine operated by electric motors, positive means shall be provided for rendering such controls or devices inoperative while repairs or adjustments are being made to the machine they control.	5.1.3.6 On machines operated by electric motors or other sources of power, positive means of lockout shall be provided for rendering such controls or devices inoperative while repairs or adjustments are being made to the machines they control.	
(6) Each operating treadle shall be protected against unexpected or accidental tripping.	5.1.3.7 Each operating control shall be protected against unexpected or accidental activation.	
(7) Feeder attachments shall have the feed rolls or other moving parts so covered or guarded as to protect the operator from hazardous points.	5.1.4 Self-Feed. Feeder attachments, such as feed rolls, chains, sprockets, gears, or other moving parts that create a hazard shall be adequately safeguarded.	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
No equivalent	5.1.5 Speeds. The operating speeds shall be etched or otherwise permanently marked on all circular saw blades and shall not be run at a speed in excess of that recommended by the manufacturer. For blades without a manufacturer's recommendation, see A5.1.5.	5.1.5 This is a new requirement in the ANSI standard 01.1-1975. Comments and information are solicited as to whether there is a need to require the marking of saw blades to insure the correct operating speeds. Will marking the saw blade address the hazards presented by incorrect usage? Will this method sufficiently address and supplement the physical restriction of using an oversize saw blade as noted in (a)(5)?

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
	A5.1.5 Speeds. In the absence of specifications by the saw blade manufacturer, Table A2 shows revolutions per minute for various speeds of saws.	
	Table A2 Saw Speeds at 12000 Peripheral Feed per Minute	
	Diameter (in) / Saw Speed (rpm): 8 / 5729; 9 / 5093; 10 / 4584; 12 / 3820; 14 / 3274; 16 / 2865; 18 / 2546; 20 / 2292; 22 / 2083; 24 / 1910; 26 / 1763; 28 / 1637; 30 / 1528	
(c) Hand-fed ripsaws.	6.1.2 Hand-Fed Ripsaws	
(1) Each circular hand-fed ripsaw shall be guarded by a hood which shall completely enclose that portion of the saw above the table and that portion of the saw above the material being cut. The hood and mounting	6.1.2.1 Each circular hand-fed ripsaw shall be provided with a hood-type guard that will cover the blade at all times when the blade is not in use. This may be accomplished by the use of a guard that will	(c)(1) A petitioner has requested OSHA to modify its present standard to include the use of a fixed or manually adjusted guard. Under what conditions would it be desirable to use a fixed or manually adjusted guard in

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
shall be arranged so that the hood will automatically adjust itself to the thickness of and remain in contact with the material being cut but it shall not offer any considerable resistance to insertion of material to saw or to passage of the material being sawed. The hood shall be made of adequate strength to resist blows and strains incidental to reasonable operation, adjusting, and handling, and shall be so designed as to protect the operator from flying splinters and broken saw teeth. It shall be made of material that is soft enough so that it will be unlikely to cause tooth breakage. The material should not shatter when broken, shall be nonexplosive, and should be no more flammable than wood. The hood shall be so mounted as to insure that its operation will be positive, reliable and in true alignment with the saw; and the mounting shall be adequate in strength to resist any reasonable side thrust or other force tending to throw it out of line.	automatically adjust to the thickness of the material being cut, or by a fixed or manually adjusted guard. If a fixed or manually adjusted guard is used, the space between the bottom of the guard and the material being cut shall not exceed 3/8 inch if 1-1/2 inches or more from the blade, and 1/4 inch if closer than 1-1/2 inches. 6.1.2.2 When the blade is in use, the hood-type guard shall enclose that portion of the blade above the material. 6.1.2.3 Hood-type guards shall be so designed and constructed as to resist blows and strains incidental to reasonable operation, adjusting, and handling, in order to protect the operator from flying splinters and broken saw teeth. 6.1.2.4 The hood shall be so mounted as to ensure that its operation will be positive, reliable, and in alignment with the saw. The mounting shall be adequate to resist any reasonable side thrust or other force that would disrupt alignment.	lieu of an automatically adjusting guard? Will the use of a manually adjusted guard present additional hazard exposure to the operator when resetting for each job? For any other reasons? Will the set-up dimensions indicated by ANSI (6.1.2.1) provide for sufficient operator protection? Will they restrict operation?
No equivalent	6.1.2.5 Where a hood-type guard cannot be used because of unusual shapes or cuts, a jig or fixture that will provide equal safety for the operator shall be used. On the completion of such operations, the guard shall be immediately replaced.	6.1.2.5 Comments are solicited to identify as many operations as possible requiring removal of the hood type guard on a hand-fed ripsaw.

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
No equivalent	6.1.2.6 A push stick shall be used on short or narrow stock when there is a possibility of the hand contacting the cutting tool.	Removal of a guard for special operations and the use of a push stick is covered by the present standard in (a)(5). What other machines and operations should be considered? 6.1.2.6 See comment 6.1.2.5 above.
(2) Each hand-fed circular ripsaw shall be furnished with a spreader to prevent material from squeezing the saw or being thrown back on the operator. The spreader shall be made of hard tempered steel, or its equivalent, and shall be thinner than the saw kerf. It shall be of sufficient width to provide adequate stiffness or or rigidity to resist any reasonable side thrust or blow tending to bend or throw it out of position. The spreader shall be attached so that it will remain in true alignment with the saw even when either the saw or table is tilted, and should be placed so that there is not more than 1/2 inch space between the spreader and the back of the saw when the largest saw is mounted in the machine. The provision of a spreader in connection with grooving, dadoing, or rabbeting is not required. On the completion of such operations, the spreader shall be immediately replaced.	6.1.2.7 Each hand-fed circular ripsaw shall be equipped with a spreader to minimize the possibility of material squeezing the saw or of material kickbacks. The spreader shall be made of tempered steel, or its equivalent, and shall be slightly thinner than the saw kerf. It shall be of sufficient width to provide adequate stiffness or rigidity to resist any reasonable side thrust or blow tending to bend or throw it out of position. The spreader shall be attached so that it will remain in true alignment with the blade, even when either the saw or table is tilted, and should be placed so that there is not more than 1/2-inch space between the spreader and the back of the blade when the recommended saw blade is in its maximum "up" position. If a blade smaller than the maximum permissible size is used, the spreader shall be moved to within 1/2 inch of the blade. The provision of a spreader in connection with grooving, dadoing, or rabbeting is not required. On the completion of such operations, the spreader shall be immediately replaced.	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(3) Each hand-fed circular ripsaw shall be provided with nonkickbacking fingers or dogs so located as to oppose the thrust or tendency of the saw to pick up the material or to throw it back toward the operator. They shall be signed to provide adequate holding power for all the thickness of materials being cut.	6.1.2.8 Each hand-fed circular ripsaw shall be provided with antikickback devices so located as to oppose the thrust or tendency of the saw blade to pick up the material or throw it back toward the operator. These devices shall be designed to provide holding power for all the thicknesses of material being cut.	(c)(3) A petitioner has suggested adopting the language from ANSI 01.1-1975. "Anti-kickback devices" is preferred to "non-kickback fingers or dogs." Comments are solicited.
(d) Hand-fed crosscut table saws.	6.1.3 Hand-Fed Crosscut Table Saws (Including Trimmer Saws)	
(1) Each circular crosscut table saw shall be guarded by a hood which shall meet all the requirements of paragraph (c)(1) of this section for hoods for circular ripsaws.	6.1.3.1 Each circular crosscut table saw shall be guarded by a hood that shall meet all the requirements of this section for hoods.	
(2) Each circular crosscut saw should also be provided with a spreader which should meet all the requirements of paragraph (c)(2) of this section.	6.1.3.2 Each circular crosscut saw shall also be provided with a spreader that shall meet the requirements of 6.1.2.7.	
(e) Circular resaws.	6.1.5 Circular Resaws	
(1) Each circular resaw shall be guarded by a hood or shield or metal above the saw. This hood or shield shall be so designed as to guard against danger from flying splinters or broken saw teeth.	6.1.5.1 Each circular resaw shall be guarded by a hood or shield above the saw that meets all the requirements of this section.	(e)(1) Comments and suggestions are solicited as to whether OSHA should permit the use of guards other than those made of metal. What types of materials should be permitted? What additional hazards can be anticipated with substitutions for the current metal requirement? Should a strength specification be given?

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(2) Each circular resaw (other than self-feed saws with a roller or wheel at back of saw) shall be provided with a spreader fastened securely behind the saw. The spreader shall be slightly thinner than the saw kerf and slightly thicker than the saw disk.	6.1.5.2 Each circular resaw (other than self-feed saws with a roller or wheel at back of the saw) shall be provided with a spreader fastened securely behind the saw. The spreader shall be slightly thinner than the saw kerf.	
(f) Self-feed circular saws.	6.1.6 Self-Feed Circular Saws	
(1) Feed rolls and saws shall be protected by a hood or guard to prevent the hands of the operator from coming in contact with the in-running rolls at any point. The guard shall be constructed of heavy material, preferably metal, and the bottom of the guard shall come down to within three-eighths inch of the plane formed by the bottom or working surfaces of the feed rolls. This distance (three-eighths inch) may be increased to three-fourths inch, provided the lead edge of the hood is extended to be not less than 5-1/2 inches in front of the nip point between the front roll and the work.	6.1.6.1 Hoods. In addition to guards over blades as specified in this section, feed rolls shall be protected by a hood or guard to prevent the hands of the operator from coming in contact at any point with the inrunning roll nip. The bottom of the guard shall come down to within 3/8 inch of the plane formed by the bottom or working surfaces of the feed rolls and be at least 1-1/2 inches from the nip point. This distance (3/8 inch) may be increased to 3/4 inch, provided the lead edge of the hood is extended to be not less than 5-1/2 inches in front of the nip point between the front roll and the work.	
(2) Each self-feed circular ripsaw shall be provided with sectional nonkickback fingers for the full width of the feed rolls. They shall be located in front of the saw and so arranged as to be in continual contact with the wood being fed.	6.1.6.2 Antikickback Devices. Each self-feed circular ripsaw shall be provided with sectional antikickback devices for the full width of the feed rolls. They shall be located in front of the saw blade and so arranged as to be in continual contact with the stock being fed.	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(g) Swing cutoff saws.	6.1.7 Swing Cutoff Saws and Sliding Cutoff Saws Mounted above the Table. (For Radial Saws, see 6.1.9.)	(g) See (g)(2) for comment.
The requirements of this paragraph are also applicable to sliding cutoff saws mounted above the table.		
(1) Each swing cutoff saw shall be provided with a hood that will completely enclose the upper half of the saw, the arbor end, and the point of operation at all positions of the saw. The hood shall be constructed in such a manner and of such material that it will protect the operator from flying splinters and broken saw teeth. Its hood shall be so designed that it will automatically cover the lower portion of the blade, so that when the saw is returned to the back of the table, the hood will rise on top of the fence, and when the saw is moved forward the hood will drop on top of and remain in contact with the table or material being cut.	6.1.7.1 Hoods. Each saw shall be provided with a device that will completely enclose the upper half of the blade, the arbor end, and the point of operation at all positions of the saw. The device shall be constructed in such a manner as to protect the operator from flying splinters and broken saw teeth. This device shall be so designed that it will automatically cover the lower portion of the blade, so that when the saw is returned to the back of the table, the hood will rise on top of the fence, and when the saw is moved forward, the device will drop on top of and remain in contact with the table or material being cut.	(g)(1) Petitioners have requested modification of this requirement for the following reasons: 1. It does not recognize limitations in the use of a lower blade guard for specific operations. 2. Use of lower blade guard creates a hazard in itself. 3. The design criteria does not function when applied to swing saws. Comments and information are solicited to determine those design limitations restricting operations, and to identify the operations, and hazardous conditions employees are exposed to when the lower blade guard is used.
(2) Each swing cutoff saw shall be provided with an effective device to return the saw automatically to the back of the table when released at any point of its travel. Such a device shall not depend for its proper functioning upon any rope, cord, or spring. If there is a counterweight, the bolts supporting the bar and	6.1.7.2 Counterweights. Each swing cutoff saw shall be provided with an effective device to return the saw blade automatically to the back of the table without rebound when the saw is released at any point of its travel. Where the counterweight is exposed to contact, it shall be enclosed by a guard to the floor or by a	(g)(2) A petitioner has stated that a bar and counterweight arrangement is not feasible for sliding saws and has requested modification of the standard. Comments and information are solicited for alternative methods devised and in use to automatically return the saw blade to the back of the table without rebound.

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
counterweights shall be provided with cotter pins; and the counterweights shall be prevented from dropping by either a bolt passing through both the bar and counterweight, or a bolt put through the extreme end of the bar, or, where the counterweight does not encircle the bar, a safety chain attached to it.	safety device that will hold twice the weight of the counterweight.	
(3) Limit chains or other equally effective device shall be provided to prevent the saw from swinging beyond the front or back edges of the table, or beyond a forward position where the gullets of the lowest saw teeth will rise above the table top.	6.1.7.3 Limit Stops. A limit chain or other equally effective device shall be provided to prevent the saw blade from swinging beyond the front or back edge of the table.	
(4) Inverted swing cutoff saws shall be provided with a hood that will cover the part of the saw that protrudes above the top of the table or above the material being cut. It shall automatically adjust itself to the thickness of and remain in contact with the material being cut.	6.1.8 Inverted Swing Cutoff, Jump Saws, Underslung Saws. As required in 6.1.2.3, a hood-type guard that will cover the blade and shall extend at least 2 inches in front of the saw teeth when the blade is in "back" position shall be securely fastened to the table. In addition, a traveling guard shall move with the blade over the material and cover the exposed part of the blade above the material. The width of the hood of jump saws shall be limited so as to provide not more than 1/4-inch clearance on each side of the blade.	(g)(4) The ANSI standard 01.1-1975 (6.1.8) provides more specification data than the current rule. Comments are solicited on whether the current rule provides sufficient guidance and protection for the operator.

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(h) Radial saws. (1) The upper hood shall completely enclose the upper portion of the blade down to a point that will include the end of the saw arbor. The upper hood shall be constructed in such a manner and of such material that it will protect the operator from flying splinters, broken saw teeth, etc., and will deflect sawdust away from the operator. The sides of the lower exposed portion of the blade shall be guarded to the full diameter of the blade by a device that will automatically adjust itself to the thickness of the stock and remain in contact with stock being cut to give maximum protection possible for the operation being performed.	6.1.9 Radial Saws 6.1.9.1 Hoods and Guards. Each saw shall be provided with a device that will completely enclose the upper portion of the blade down to a point that includes the end of the saw arbor. The upper hood shall be so constructed as to protect the operator from flying splinters and broken saw teeth, and to deflect sawdust away from the operator. The sides of the lower exposed portion of the saw blade shall be guarded from the tips of the blade teeth inward radially with no greater than 3/8-inch gullet exposure. The device shall automatically adjust itself to the thickness of the stock and remain in contact with the stock being cut for the 90° blade position (0° bevel) throughout the full working range of miter position. A permanent label not less than 1-1/2 inches X 3/4 inch shall be affixed to the guard visible from the normal operating position, reading as follows: WARNING: TO AVOID INJURY, SHUT OFF POWER BEFORE CLEARING A JAMMED LOWER GUARD Such a label shall be colored standard danger red or orange in accordance with American National Standard Safety Color Code for Marking Physical Hazards, Z53.1-1971.	(h)(1) Petitioners have requested modification of this requirement for the following reasons: 1. Lower blade guards are not commercially available that afford reasonable operator safety and do not interfere with or restrict some operations. Re: bevel and compound cuts. 2. The lower blade guard is a hazard in itself under specific conditions. 3. The standard limits the ability to substitute a device which will not obstruct the operator's view. It has been suggested that the warning label (ANSI 01.1-1975) (6.1.9.1) include waiting for the blade to stop. Comments and information are solicited to determine the guard design limitations restricting operation and to identify the operations and hazardous conditions employees are exposed to when the lower blade guard is used. Specifically address comments to the range limitations for bevel and compound cuts when using the automatic guard. Can all miter cuts be accomplished with the guard in place?

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
No equivalent	6.1.9.2 Spreaders. When radial saws are used for ripping, a spreader shall be provided and shall be aligned with the saw blade.	
(2) Each radial saw used for ripping shall be provided with nonkickback fingers or dogs located on both sides of the saw so as to oppose the thrust or tendency of the saw to pick up the material or to throw it back toward the operator. They shall be designed to provide adequate holding power for all the thicknesses of material being cut.	6.1.9.3 Antikickback Devices. Antikickback devices located on both sides of the saw blade on the outfeed side, so as to oppose the thrust or tendency of the blade to pick up the material or to throw it back toward the operator, shall be used on each radial saw used for ripping. These devices shall be designed to provide adequate holding power for all the thicknesses of material being cut.	
	6.1.9.4 Adjustable Stops and Return Devices	
(3) An adjustable stop shall be provided to prevent the forward travel of the blade beyond the position necessary to complete the cut in repetitive operations.	6.1.9.4.1 An adjustable stop shall be provided to prevent the forward travel of the blade beyond the position necessary to complete the cut in repetitive operations. A limit chain or other equally effective device shall be provided to prevent the saw blade from sliding beyond the edge of the table; or the table shall be extended to eliminate over-run.	(h)(3) A petitioner suggests the wording "adjustable stop" be changed to "effective limiting device." Comments are solicited. What are the devices other than an adjustable stop which can be used to prevent forward travel of the blade beyond the point necessary to complete the cut? What are the devices other than a limit chain which can keep the saw blade from going beyond the edge of the table? Will the devices used to substitute for adjustable stops and limit chains offer equal operator protection from the hazards?

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(4) Installation shall be in such a manner that the front end of the unit will be slightly higher than the rear, so as to cause the cutting head to return gently to the starting position when released by the operator.	6.1.9.4.2 On any manually operated saw, installation shall be such that the front of the machine is slightly higher that the rear, or some other means shall be provided so that the cutting head will not roll or move out on the arm away from the column as a result of gravity or vibration. A permanent label not less than 1-1/2 inches X 3/4 inch shall be affixed to the cutting head visible from the normal crosscut operating position, reading as follows: WARNING: TO AVOID INJURY, RETURN CARRIAGE TO THE FULL REAR POSITION AFTER EACH CROSSCUT TYPE OF OPERATION Such a label shall be colored standard caution yellow in accordance with American National Standard Z53.1-197.	(h)(4) A petition has been received requesting modification of the standard to eliminate the present method as unfeasible and to identify an alternative method of returning the cutting head to the starting position. The ANSI standard 01.1-1975 (6.1.9.4.2) deletes the requirement for self-return of the cutting head but requires a means to prevent it from creeping out on the arm away from the column. Does the current method always insure return of the blade to the starting position? Can the carriage bearings, if adjusted to the manufacturer's specification to eliminate end-play, allow for the arm to be tilted at an angle not to exceed that which would require major modification to the table for in and out feed? Will the hazard be correctly addressed and are there any other safety measures required if the carriage has to be returned manually to the rear position and the cutting head is prevented from accidently moving out on the arm? Other than tilting the front end of the unit what devices can be employed to prevent the cutting head from moving out on the arm?
(5) Ripping and ploughing shall be against the direction in which the saw turns. The direction of the saw rotation shall be conspicuously marked on the hood. In addition, a permanent label not less than 1-1/2 inches by 3/4 inch shall be affixed to the rear of the guard or approximately	6.1.9.5 Direction of Feed. Ripping and ploughing shall be against the direction in which the saw blade turns. The direction of the saw blade rotation shall be conspicuously marked on the hoods. In addition, a permanent label not less than 1-1/2 inches X 3/4 inch shall be affixed to	(h)(5) A comment has been received stating that the wording for the label in our present standard does not cover the hazards employees are exposed to when using the machine for operations other than ripping and ploughing.

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
the level of the arbor, reading as follows: "Danger: Do Not Rip or Plough From This End." Such a label should be colored standard danger red.	the end of the guard at which the blade teeth exit the upper guard during operation. The label shall be at approximately the level of the arbor and shall read as follows: DANGER: TO AVOID INJURY, DO NOT FEED MATERIAL INTO CUTTING TOOL FROM THIS END Such a label shall be colored standard red or orange in accordance with American National Standard, Z53.1-1971.	
(1) Bandsaws and band resaws. (1) All portions of the saw blade shall be enclosed or guarded, except for the working portion of the blade between the bottom of the guide rolls and the table. Bandsaw wheels shall be fully encased. The outside periphery of the enclosure shall be solid. The front and back of the band wheels shall be either enclosed by solid material or by wire mesh or perforated metal. Such mesh or perforated metal shall be not less than 0.037 inch (U. S. Gage No.20), and the openings shall be not greater than three-eighths inch. Solid material used for this purpose shall be of an equivalent strength and firmness. The guard for the portion of the blade between the sliding guide and the upper-saw-wheel guard shall protect the saw blade at the front and outer side. This portion of the guard shall be self-adjusting to raise and lower with the	6.2 Band Saws and Band Resaws 6.2.1 Enclosing Band Saw Blades. All portions of the saw blade shall be enclosed or guarded, except for the working portion of the blade between the bottom of the guide rolls and the table. Band saw wheels shall be fully encased. The outside periphery of the enclosure shall be solid., The front and back of the band wheels shall be either enclosed by solid material or by wire mesh or perforated metal. Such mesh or perforated metal shall be not less than 0.037 inch (U. S. Gage No. 20), and the openings shall be not greater than 3/8 inch. Solid material used for this purpose shall be of an equivalent strength and firmness. The guard for the portion of the blade between the sliding guide and the upper saw wheel guard shall enclose the saw blade at the front and outer side. This portion of the guard shall be self-adjusting to raise and lower with the guide.	(1)(1) It has been suggested that the braking requirement be removed from the present standard since the hazard does not exist when the band wheels are properly guarded. The ANSI standard 01.1-1975 (6.2.1) has deleted as redundant a part of the specification requirement for the upper wheel guard. It addreeses the braking requirement to the hazard exposed by a coasting blade when the machine is shut off and left unattended rather than to blade breakage. Comments are solicited to determine the extent of the hazard exposure when a machine is shut off but left unattended. Does the hazard caused by a coasting wheel still exist when attempting to remove a broken blade?

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
guide. The upper-wheel guard shall be made to conform to the travel of the saw on the wheel, and the top member of the guard should have at least a 2-inch clearance outside the saw and be lined with smooth material, perferably metal. Effective brakes should be provided to stop the wheel in case of blade breakage.	Effective braking action shall be provided to minimize the potential hazard of coasting when the machine is shut off and left unattended.	
(2) Each bandsaw machine shall be provided with a tension control device to indicate a proper tension for the standard saws used on the machine, in order to assist in the elimination of saw breakage due to improper tension.	6.2.2 Tension. Each band saw machine shall be provided with a tension control device to indicate proper tension for the saw blades used on the machine.	
(3) Feed rolls of band resaws shall be protected with a suitable guard to prevent the hands of the operator from coming in contact with the in-running rolls at any point. The guard shall be constructed of heavy material, preferably metal, and the edge of the guard shall come to within three-eighths inch of the plane formed by the inside face of the feed roll in contact with the stock being cut.	6.2.3 Feed Rolls. Feed rolls of band resaws shall be equipped with guards to prevent the hands of the operator from coming into contact with the roll nip points. The edge of the guard shall come to within 3/8 inch of the plane formed by the inside face of the feed roll in contact with the stock being cut and the work table.	
(j) Jointers.	6.3 Jointers and Planers	
	6.3.1 Point of Operation	
(1) Each hand-fed planer and jointer with horizontal head shall be equipped with a cylindrical cutting head, the knife projection of which shall not exceed one-eighth inch beyond the cylindrical body of the head.	6.3.1.1 Each hand-fed planer and jointer with horizontal or vertical head shall be equipped with a cylindrical cutting head, the knife projection of which shall not exceed 1/8 inch beyond the cylindrical body of the head.	(j)(1) Comments and suggestions are solicited as to whether the requirement should be expanded to include vertical head machines.

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
No equivalent	6.3.1.2 Square cutting heads shall not be used.	
(2) The opening in the table shall be kept as small as possible. The clearance between the edge of the rear table and the cutter head shall be not more than one-eighth inch. The table throat opening shall be not more than 2-1/2 inches when tables are set or aligned with each other for zero cut.	6.3.1.3 The opening in the table shall be kept as small as possible. The clearance between the rear table and the cutting head circle or knives shall be not more than 1/8 inch. The table throat opening shall be not more than 2-1/2 inches when tables are set or aligned with each other for zero cut.	
(3) Each hand-fed jointer with a horizontal cutting head shall have an automatic guard which will cover all the section of the head on the working side of the fence or gage. The guard shall effectively keep the operator's hand from coming in contact with the revolving knives. The guard shall automatically adjust itself to cover the unused portion of the head and shall remain in contact with the material at all times.	6.3.2 Automatic Guards 6.3.2.1 Each hand-fed jointer shall have an automatic guard that will cover all the sections of the cutting head on the working side of the fence or guard. The guard shall be designed to prevent accidental contact with the revolving knives and shall automatically adjust itself to cover the unused portion of the head and shall remain in contact with the material at all times.	
(4) Each hand-fed jointer with horizontal cutting head shall have a guard which will cover the section of the head back of the gage or fence.	6.3.2.2 Each hand-fed jointer with horizontal cutting head shall have a guard that will cover the section of the head in back of the gage or fence.	
(5) Each wood jointer with vertical head shall have either an exhaust hood or other guard so arranged as to enclose completely the revolving head, except for a slot of such width as may be necessary and convenient for the application of the material to be jointed.	6.3.3 Vertical Head Jointers. Each wood jointer with vertical head shall have either an exhaust hood or other guard so arranged as to enclose completely the revolving head, except for a slot of such width as may be necessary for the application of the material to be jointed.	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(k) Tenoning machines.	6.4 Tenoning Machines	
	6.4.2 Feed Chains and Sprockets	
(1) Feed chains and sprockets of all double end tenoning machines shall be completely enclosed, except for that portion of chain used for conveying the stock.	6.4.2.1 Feed chains and sprockets of all double end tenoning machines shall be completely enclosed, except for that portion of chain used for conveying the stock.	
(2) At the rear ends of frames over which feed conveyors run, sprockets, and chains shall be guarded at the sides by plates projecting beyond the periphery of sprockets and the ends of lugs.	6.4.2.2 At the rear ends of frames over which feed coveyors run, sprockets and chains shall be guarded at the sides by plates projecting beyond the periphery of sprockets and the ends of lugs.	
(3) Each tenoning machine shall have all cutting heads, and saws if used, covered by metal guards. These guards shall cover at least the unused part of the periphery of the cutting head. If such a guard is constructed of sheet metal, the material used shall be not less than one-sixteenth inch in thickness, and if cast iron is used, it shall be not less than three-sixteenths inch in thickness.	6.4.1 Guarding of Cutting Heads 6.4.1.1 Each tenoning machine shall have all cutting heads, and saws if used, covered by guards. These guards shall cover at least the unused part of the periphery of the cutting head.	(k)(3) Comments and suggestions are solicited as to whether OSHA should permit the use of guards other than those made of metal. What types of materials should be permitted? What additional hazards can be anticipated with substitutions for the current metal requirement? Should a strength specification be given?
(4) Where an exhaust system is used, the guard shall form part or all of the exhaust hood and shall be constructed of metal of a thickness not less than that specified in subparagraph (3) of this paragraph.	6.4.1.2 Where an exhaust system is used, the guard may form part or all of the exhaust hood.	(k)(4) Same comment solicited as in (k)(3) above.

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
No equivalent	6.4.1.3 Where space permits, the rear end of the frame over which the feed conveyors run should be so extended that the material, as it leaves the machine, will by guided to a point within easy reach of the person "taking away" at the rear of the tenoner.	
No equivalent	6.4.3 Hand-Fed Tenoners. Hand-fed tenoning machines shall be provided with a clamping or "holddown" device on the fixture.	
(l) Boring and mortising machines.	6.5 Boring and Mortising Machines	
(1) Safety bit chucks with no projecting set screws shall be used.	6.5.1 Chucks. Chucks with projecting set screws shall not be used.	
(2) Boring bits should be provided with a guard that will enclose all portions of the bit and chuck above the material being worked.	6.5.5 Boring Bits. Boring bits shall be provided with a guard that will prevent accidental contact with the bit chuck above the material being worked.	
(3) The top of the cutting chain and driving mechanism shall be enclosed.	6.5.2 Chain Mortisers. The top of the cutting chain and driving mechanism shall be enclosed.	
(4) If there is a counterweight, one of the following or equivalent means shall be used to prevent its dropping:	6.5.3 Counterweights. Where there is a counterweight, suitable means shall be used to prevent its dropping.	(l)(4) The ANSI standard 01.1-1975 (6.5.3) has deleted reference to the specification criteria (l)(4)(i)-(l)(4)(iv) in the present standard. The standard limits the requirement to preformance language to gain method flexibility. Comments are invited to determine if the performance language gives as sufficient guidance and operator protection as is provided in our present standard.
(i) It shall be bolted to the bar by means of a bolt passing through both bar and counterweight;	No equivalent	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(ii) A bolt shall be put through the extreme end of the bar;	No equivalent	
(iii) Where the counterweight does not encircle the bar, a safety chain shall be attached to it;	No equivalent	
(iv) Other types of counterweights shall be suspended by chain or wire rope and shall travel in a pipe or other suitable enclosure wherever they might fall and cause injury.	No equivalent	
(5) Universal joints on spindles of boring machines shall be completely enclosed in such a way as to prevent accidental contact by the operator.	6.5.4 Universal Joints. Universal joints on spindles of boring machines shall be guarded in such a way as to prevent accidental contact by the operator.	
(6) Each operating treadle shall be covered by an inverted U-shaped metal guard, fastened to the floor, and of adequate size to prevent accidental tripping.	6.13 Guarding Operating Treadles. Each operating treadle shall be covered by a device which is adequate to avoid accidental activation or tripping.	
(m) Wood shapers and similar equipment.	6.6 Wood Shapers and Similar Machines	
	6.6.1 Guarding of Cutting Heads	
(1) The cutting heads of each wood shaper, hand-fed panel raiser, or other similar machine not automatically fed, shall be enclosed with a cage or adjustable guard so designed as to keep the operator's hand away from the cutting edge. The diameter of circular shaper guards shall be not less than the greatest diameter of the cutter.	6.6.1.1 The cutting heads of each wood shaper, hand-fed panel raiser, or other similar machine not automatically fed, shall be enclosed with a cage or adjustable guard so designed as to minimize operator contact with cutterhead. The diameter of circular shaper guards shall be greater than the diameter of the cutter.	(m)(1) The ANSI standard 01.1-1975 (6.6.1.1) reflects the availablility and industry acceptance of free running warning devices that attach to the shaper spindle. It has been suggested that the ANSI provision be incorporated in the OSHA standard but limited to use only when the operation

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
In no case shall a warning device of leather or other material attached to the spindle be acceptable.	In no case shall a warning device of leather or similar material attached to the spindle. A warning device attached to the spindle shall stop rotating on contact.	precludes the use of a guard. Comments are solicited to identify those operations which cannot be accomplished with the guard in place.
(2) Cylindrical heads should be used whenever the nature of the work will permit. Single cutter knives in shaper heads shall not be used unless properly balanced.	6.6.1.2 Cylindrical heads should be used whenever the nature of the work will permit. Single cutter knives in shaper heads shall not be used unless properly balanced.	
(3) All double-spindle shapers shall be provided with a spindle starting and stopping device for each spindle.	6.6.2 Single Starting and Stopping Devices. All double-spindle shapers shall be provided with a spindle starting and stopping device for each spindle.	
No equivalent	6.6.1.3 Templates, jigs, and fixtures that will remove the operator's hands from the point of operation shall be used whenever the nature of the work will permit.	
(n) Planing, molding, sticking, and matching machines.	6.7 Planing, Molding, Sticking, and Matching Machines	
	6.7.1 Guarding of Cutting Heads	
(1) Each planing, molding, sticking, and matching machine shall have all cutting heads, and saws if used, covered by a metal guard. If such a guard is constructed of sheet metal, the material used shall be not less than 1/16 inch in thickness, and if cast iron is used, it shall be not less than three-sixteenths inch in thickness.	6.7.1.1 Each planing, molding, sticking, and matching machine shall have all cutting heads and saws, if used, covered by a guard to minimize accidental contact with the cutting head.	(n)(1) Comments and suggestions are solicited as to whether OSHA should permit the use of guards other than those made of metal. What types of materials should be permitted? What additional hazards can be anticipated with substitutions for the current metal requirement? Sould a strength specification be given?

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(2) Where an exhaust system is used, the guards shall form part or all of the exhaust hood shall be constructed of metal of a thickness not less than that specified in subparagraph (1) of this paragraph.	6.7.1.2 Where an exhaust system is used, the guards may form part or all of the exhaust hood.	(n)(2) Same comments solicited as for (n)(1) above.
(3) Feed rolls shall be guarded by a hood or suitable guard to prevent the hands of the operator from coming in contact with the in-running rolls at any point The guard shall be fastened to the frame carrying the rolls so as to remain in adjustment for any thickness of stock.	6.7.2 Feed Rolls 6.7.2.1 Feed rolls shall be provided with a guard or hood to minimize operator contact with the roll nip points. The guard shall remain in adjustment for any thickness of stock.	
(4) Surfacers or planers used in thicknessing multiple pieces of material simultaneously shall be provided with sectional infeed rolls having sufficient yield in the construction of the sections to provide feeding contact pressure on the stock, over the permissible range of variation in stock thickness specified or for which the machine is designed. In lieu of such yielding sectional rolls, suitable section kickback finger devices shall be provided at the infeed end.	6.7.2.2 Surfacers or planers used in processing multiple pieces of material simultaneously shall be provided with sectional in-feed rolls having sufficient yield in the construction of the sections to provide feeding contact pressure on the stock over the permissible range of variation in stock thickness for which the machine is designed.	(n)(4) Comments and information are solicited to identify the hazards employees are exposed to if suitable section kickback finger devices are provided at the infeed end of the machines in place of the yielding sectional rolls?
(o) Profile and swing-head lathes and wood heel turning machine.	6.8 Profile and Swing-Head Lathes (Including Wood Heel Turning Machines)	(o) Information is solicited to currently define these terms.
	6.8.1 Guarding of Cutting Heads	
(1) Each profile and swing-head lathe shall have all cutting heads covered by a metal guard. If such a guard is constructed of sheet metal, the material	6.8.1.1 Each profile and swing-head lathe shall have all cutting heads covered by a guard to minimize accidental contact with the cutting head.	(o)(1) Comments and suggestions are solicited as to whether OSHA should permit the use of guards other than those made of metal. What types of materials should be

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
used shall be not less than one-sixteenth inch in thickness; and if cast iron is used, it shall not be less than three-sixteenths inch in thickness.		permitted? What additional hazards can be anticipated with substitutions for the current metal requirement? Should a strength specification be given?
(2) Cutting heads on wood-turning lathes, whether rotating or not, shall be covered as completely as possible by hoods or shields, which should be hinged to the machines so that they can be thrown back for making adjustments.	6.8.1.2 Cutting heads on wood-turning lathes, whether rotating or not, shall be covered as completely as possible by hoods or shields.	(o)(2) Comments and information are solicited to determine whether sufficient guidance would be provided without indicating a hinged construction for the guard to facilitate set-up.?
(3) Shoe last and spoke lathes, doweling machines, wood heel turning machines, and other automatic wood-turning lathes of the rotating knife type shall be equipped with hoods enclosing the cutter blades completely except at the contact points while the stock is being cut.	6.8.1.3 All automatic wood-turning machines of the rotating-knife type shall be equipped with guards enclosing the cutter blades completely, except at the contact points while the stock is being cut.	
(4) Lathes used for turning long pieces of wood stock held only between the two centers shall be equipped with long curved guards extending over the tops of the lathes in order to prevent the work pieces from being thrown out of the machines if they should become loose.	6.8.1.4 Lathes used for turning long pieces of wood stock held only between the two centers shall be equipped with means to prevent the workpieces from being thrown out of the machines.	(o)(4) Comments are solicited to determine if the performance language in ANSI 01.1-1975 (6.8.1.4) gives sufficient guidance and operator protection to replace the specification criteria in our present standard. Data is requested that will help identify means of guarding other than "long curved guards" which will provide equal protection for employee safety.
No equivalent	6.8.1.5 Guards covering the workpiece in wood-turning lathes should be so constructed to permit observation of the turning operations.	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
No equivalent	6.8.1.6 Wood-turning lathes shall be equipped with suction hoods, properly connected to efficient exhaust systems that will remove, at their point of origin, the chips and dusts produced.	
(5) Where an exhaust system is used, the guard shall form part or all of the exhaust hood and shall be constructed of metal of a thickness not less than that specified in subparagraph (1) of this paragraph.	6.8.1.7 An exhaust system may form part or all of the guard.	(o)(5) Comments and suggestions are solicited as to whether OSHA should permit the use of guards other than those made of metal. What types of materials should be permitted? What additional hazards can be anticipated with substitutions for the current metal requirement? Should a strength specification be given?
No equivalent	6.8.1.8 Tool rests shall be securely fastened to avoid accidental movement.	
(p) Sanding machines.	6.9 Sanding Machines.	
(1) Feed rolls of self-feed sanding machines shall be protected with a semicylindrical guard to prevent the hands of the operator from coming in contact with the in-running rolls at any point. The guard shall be constructed of heavy material, preferably metal, and firmly secured to the frame carrying rolls so as to remain in adjustment for any thickness of stock. The bottom of the guard should come down to within three-eights inch of a plane formed by the bottom or contact face of the feed roll where it touches the stock.	6.9.1 Feed Rolls. Feed rolls of self-feed sanding machines shall be protected with a semicylindrical guard to prevent the hands of the operator from coming in contact with the roll nip points. The guard and its mounting shall be designed to remain in adjustment for any thickness of stock. The bottom of the guard should come down to within 3/8 inch of a plane formed by the bottom or contact face of the feed roll where it touches the stock.	(p)(1) Comments are solicited to determine the need to clarify the guard construction requirement for a heavy material. Should a strength criteria be established? What types of exposures and operating conditions would determine the strength requirement?

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(2) Each drum sanding machine shall have an exhaust hood, or other guard if no exhaust system is required, so arranged as to enclose the revolving drum, except for that portion of the drum above the table, if a table is used, which may be necessary and convenient for the application of the material to be finished.	6.9.2 Drum Sanding Machines. Each drum sanding machine shall have an exhaust hood, or other guard, so arranged as to enclose the revolving drum, except for the working portion of the drum above the table.	
(3) Each disk sanding machine shall have the exhaust hood, or other guard is no exhaust system is required, so arranged as to enclose the revolving disk, except for that portion of the disk above the table, if a table is used, which may be necessary for the application of the material to be finished.	6.9.3 Disk Sanding Machines. Each disk sanding machine shall have the exhaust hood, or other guard, so arranged as to enclose the revolving disk, except for that portion of the disk above the table. NOTE: The distance between the disk and the table edge shall be kept at a minimum.	
	6.9.4 Belt Sanding Machines	
(4) Belt sanding machines shall be provided with guards at each nip point where the sanding belt runs on to a pulley. These guards shall effectively prevent the hands or fingers of the operator from coming in contact with the nip points. The unused run of the sanding belt shall be guarded against accidental contact.	6.9.4.1 Belt sanders shall have all pulleys enclosed including sides and periphery. This does not include the working end of an edge sander. An exhaust hood may be part of the guard. 6.9.4.2. The unused run of the belt shall be guarded.	(p)(4) Comments are solicited to identify those hazards, if any, presented by using the working edge of the sander for curved work. Should consideration be given to additional protection for operator safety?
	6.11 Routers	
No equivalent	6.11.1 The pulleys, spindles, and cutting tools of stationary routers shall by guarded.	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(q) Veneer cutters and wringers.		(q) Information is solicited to define the word "wringer." Is it currently in use?
(1) Veneer slicer knives shall be guarded to prevent accidental contact with knife edge, at both front and rear.	7.5 Veneer Slicer. The knife shall be guarded at front and rear to prevent accidental contact with the knife edge.	
(2) Veneer clippers shall have automatic feed or shall be provided with a guard which will make it impossible to place a finger or fingers under the knife while feeding or removing the stock.	7.6 Veneer Clippers 7.6.1 Guarding Clippers. Clippers shall be provided with a guard on both in-feed and out-feed sides to protect the operator and helper.	
(3) Sprockets on chain or slat-belt conveyors shall be enclosed.	Covered under machines and equipment by reference to ANSI B15.1-1972.	
(4) Where practicable, hand and foot-power guillotine veneer cutters shall be provided with rods or plates or other satisfactory means, so arranged on the feeding side that the hands cannot reach the cutting edge of the knife while feeding or holding the stock in place.	No equivalent	(q)(4) A comment has been received that the suggested methods of guarding are impractical and that the safeguarding can be addressed in (q)(2) if modified to suit ANSI 01.1-1975 (7.6.1). Comments are solicited.
(5) Power-driven guillotine veneer cutters, except continuous feed trimmers, shall be equipped with:	7.6.3 Power-Driven Guillotine Veneer Cutters (except Continuous Feed Trimmers) 7.6.3.1 Power-driven veneer cutters shall be equipped with either of the following:	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(i) Starting devices which require the simultaneous action of both hands to start the cutting motion and of at least one hand on a control during the complete stroke of the knife; or	(1) A starting device that requires the simultaneous action of both hands to start the cutting motion and at least one hand on a control during the complete stroke of the knife; or	
(ii) An automatic guard which will remove the hands of the operator from the danger zone at every descent of the blade, used in conjunction with one-hand starting devices which require two distinct movements of the device to start the cutting motion, and so designed as to return positively to the nonstarting position after each complete cycle of the knife.	(2) An automatic device that will remove the hands of the operator from the danger zone at every descent of the blade, used in conjunction with one-hand starting devices that require two distinct movements of the device to start the cutting motion. 7.6.3.2. All power-driven veneer cutters shall be so designed that the knife positively returns to the starting position after each complete cycle of the knife.	
(6) Where two or more workers are employed at the same time on the same power-driven guillotine veneer cutter equipped with two-hand control, the device shall be so arranged that each worker shall be required to use both hands simultaneously on the controls to start the cutting motion, and at least one hand on a control to complete the cut.	7.6.3.3 Where two or more workers are employed at the same time on the same power-driven guillotine veneer cutter equipped with two-hand control, the device shall be so arranged that each worker shall be required to use both hands simultaneously on the controls to start the cutting motion, and at least one hand on a control to complete the cut.	
(7) Power-driven guillotine veneer cutters, other than continuous trimmers, shall be provided, in addition to the brake or other stopping mechanism, with a emergency device which will prevent the machine from operating in the event of failure of the brake when the starting mechanism is in the nonstarting position.	7.6.3.4 In addition to the brake or other stopping mechanism, a nonrepeat device that will prevent the machine from operating in the event of a mechanical failure shall be provided.	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
No equivalent	7.6.3.5 Where no other device serves as protection, a guard running the length of the knife shall be installed on the in-feed side.	7.6.3.5-7.6.3.9 The ANSI standard 01.1-1975 has addressed these 5 additional hazards for power-driven guillotine veneer cutters not covered in the current standard. Comments are solicited on the suggestion to expand 1910.213 to cover these hazards.
No equivalent	7.6.3.6 A protective device, such as side shields, shall be provided on the out-feed side.	
No equivalent	7.6.3.7 A protective device for the knife edge shall be provided for use when the knife is being transported.	
No equivalent	7.6.3.8 Positive means of opening and locking the control circuit and supporting the mechanism in the "up" position shall be provided for use during knife changes.	
No equivalent	7.6.3.9 When the hold-down clamp and the knife are in their uppermost positions, the knife edge shall not extend below the lower edge of the hold-down clamp.	
	7.4 Veneer Lathe	
No equivalent	7.4.1 A mechanical lock shall be provided to prevent the backup roll from closing until activated by the operator.	7.4.1-7.4.8 The ANSI standard 01.1-1975 has addressed these 8 additional hazards for veneer lathes not previously covered in the old standard. Comments are solivited on the suggestion to expand 1910.213 to cover these hazards.
	7.4.2 A guard or positive interlock and necessary hydraulic or air controls shall be provided to prevent forward movement of the charger, if such movement may be hazardous.	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
No equivalent	7.4.3 Positive means shall be provided to hold the head in the open position while the knife is being serviced.	
No equivalent	7.4.4 A protective device for the knife edge shall be provided for use when the knife is being transported.	
No equivalent	7.4.5 Where there is a hazard from "exploding" logs, both lathe operator's and charger operator's stations shall be protected against flying slabs and chips.	
No equivalent	7.4.6 Means shall be provided in knife-grinding areas to drain cleaning or cooling liquids from the work stations.	
No equivalent	7.4.7 Knives and other cutting equipment shall have planned storage areas.	
No equivalent	7.4.8 The area under the elevating ramp (tipple) from the lathe to the stock trays shall be guarded to prevent entrance while the lathe is in operation.	
(r) Miscellaneous woodworking machines. (1) The feed rolls of roll type glue spreaders shall be guarded by a semicylindrical guard. The bottom of the guard shall come to within three-eighths inch of a plane formed by bottom or contact face of the feed roll where it touches the stock.	6.12 Glue Spreaders (Feed-Roll Type). Where there is a hazard to the operator, the feed roll shall be guarded at all nip points. The bottom of the guard at the infeed side shall come to within 3/8 inch of a horizontal plane formed by the bottom or contact face of the feed roll and the top surface of the stock and at least 1-1/2 inches away from the contact point. It is recommended that a reversing bar or switch, or a kickplate be used in addition to the nip guard.	(r)(1) Comments are solicited on the suggestion to modify the current standard to additionally require locating the guard a specific distance away from the feed rolls of a glue spreader and to further recommend the use of a reversing bar or switch or kickplate.

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(2) Drag saws shall be so located as to give at least a 4-foot clearance for passage when the saw is at the extreme end of the stroke; or if such clearance is not obtainable, the saw and its driving mechanism shall be provided with a standard enclosure.	7.3 Saws 7.3.1 Log Cutoff Saws. Saws shall be so located as to give safe clearance for passage when the saw is at the extreme end of the stroke, or if such clearance is not obtainable, the saw and its driving mechanism shall be provided with a standard enclosure.	(r)(2) Comments and information are solicited for the correct word usage. Can drag saws and log cutoff saws be used interchangably and if so which is more commonly used?
No equivalent	7.3.2 Circular Cutoff Saws. The operator shall be shielded from sawdust and flying chips.	
(3) For combination or universal woodworking machines each point of operation of any tool shall be guarded as required for such a tool in a separate machine.	6.10 Combination or Universal Woodworking Machines. For combination or universal woodworking machines, each point of operation shall be guarded as specified in the rules of this standard for each separate machine. Such machines shall be provided with a separate stopping and starting device at each point of operation.	(r)(3) Comments and information are solicited to determine the hazard exposure and conditions under which combination woodworking machines would require individual emergency start and stop controls at each point of operation.
(4) The mention of specific machines in paragraphs (a) thru (q) and this paragraph (r) of this section, inclusive, is not intended to exclude other woodworking machines from the requirement that suitable guards and exhaust hoods be provided to reduce to a minimum the hazard due to the point of operation of such machines.	6.14 Other Machines Not Excluded. The mention of specific machines in 6.1 through 6.12 inclusive, is not intended to exclude other woodworking machines from the requirement that suitable guards and exhaust hoods be provided. Reduce to a minimum the hazard due to the point of operation of such machines.	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
	9.1 Inspection and Maintenance	§1910.213(s) A comment has been received stating that §1910.213(s) except for (s)(3) and (4) does not address the major machine maintenance problem areas but concerns itself primarily with accessory tooling and safe operating procedures.
No equivalent	9.1.1 Inspection	The ANSI standard 01.1-1975 (9.1.1.1 and 9.1.1.2) addresses new requirements for the inspection and maintenance of woodworking equipment not covered in the current standard.
	9.1.1.1 Emphasis is placed upon the importance of maintaining systematic inspection of all woodworking machines and safety equipment to assist in the discovery or detection of developing defects and to permit their prompt correction. Inspections are to be performed by a plant safety engineer, foreman, supervisor, or other qualified personnel familiar with the machinery. Inspection shall determine that safety equipment is in working condition and in place, that noise/time exposure levels are within allowable limits, that the machine operator is properly trained in safe operating procedures of the equipment, and that the operator and machine are equipped with the safety accessories suitable for the hazards of the operation.	Specific comments should be directed, but not limited, to the following requirements: 1. Regular and periodic inspection 2. Inspection by qualified personnel 3. Minimum recordkeeping requirements 4. Inspection elements 5. Operator training in safe operating procedures.
No equivalent	9.1.1.2 Each machine is to be inspected at least every six months, and a (rugged) tag or card affixed to the machine. It shall contain a minimum of the following: machine number, inspection date, period of validity, and signature of a qualified person familiar with the machinery.	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(s) Inspection and maintenance of woodworking	9.1.2 Maintenance	
(1) Dull, badly set, improperly filed, or improperly tensioned saws shall be immediately removed from service, before they begin to cause the material to stick, jam, or kick back when it is fed to the saw at normal speed. Saws to which gum has adhered on the sides shall be immediately cleaned.	9.1.2.1 Dull, badly set, improperly filed, or improperly tensioned saw blades shall be immediately removed from service before they result in causing the material to stick, jam, or kick back when it is fed to the saw at normal speed. Saw blades to which gum has adhered on the sides shall be cleaned before the thickness of the gum is approximately two-thirds the tooth set. It is strongly recommended that users obtain and follow instructions from the saw blade manufacturers for proper maintenance of all saw blades. Band saw wheels should be kept clean and free from accumulations of sap, gum, or resins.	
(2) All knives and cutting heads of woodworking machines shall be kept sharp, properly adjusted, and firmly secured. Where two or more knives are used in one head, they shall be properly balanced.	9.1.2.2 All knives and cutting heads of woodworking machines shall be kept sharp, properly adjusted, and firmly secured. Cutting heads shall not generate sensible vibration.	
(3) Bearings shall be kept free from lost motion and shall be well lubricated.	9.1.2.3 Mounted cutting tools or cutting tool arbors, or both, shall be free of excessive lateral and radial play. Bearings shall have proper lubrication.	
(4) Arbors of all circular saws shall be free from play.		
(5) Sharpening or tensioning of saw blades or cutters shall be done only by persons of demonstrated skill in this kind of work.	9.1.2.4 Sharpening or tensioning of saw blades or cutters shall be done only by persons of demonstrated skill in this kind of work.	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(6) Emphasis is placed upon the importance of maintaining cleanliness around woodworking machinery, particularly as regards the effective functioning of guards and the prevention of fire hazards in switch enclosures, bearings, and motors.	9.1.2.5 Cleanliness around woodworking machinery is to be maintained to ensure proper functioning of guards, bearings, motors, and electrical equipment, and to prevent generation of fire hazards.	
(7) All cracked saws shall be removed from service.	9.3.2.1 Cracked saw blades shall be removed from service and shall not be used until they have been inspected and repaired by a skilled sawsmith. If a skilled sawsmith is not available, saw blades should be returned to the manufacturer for welding, slotting, or tensioning as required for safe operating speed and service.	
(8) The practice of inserting wedges between the saw disk and the collar to form what is commonly known as a "wobble saw" shall not be permitted.	9.3.2.4 The practice of inserting wedges between the saw blades and the collar to form what is commonly known as a wobble saw shall not be permitted.	
(9) Push sticks or push blocks shall be provided at the work place in the several sizes and types suitable for the work to be done.	9.3.2.5 Push sticks or push blocks shall be provided at the workplace in several sizes and types suitable for the work to be done.	
(10) Twists or kinks in bandsaws and band resaws shall be promptly removed with a hammer.	9.3.2.7 Band saw blades shall be periodically examined to avoid use of cracked blades or blades that indicate probability of breakage.	
(11) To avoid vibration, brazed joints in bandsaws and band resaws shall be the same thickness as the saw blade.	9.3.3.6 To avoid vibration, brazed joints shall be the same thickness as the saw blade.	

Present Standard	Latest ANSI Standard	Comments
1910.213	01.1-1975	
(12) The knife blade of jointers shall be so installed and adjusted that it does not protrude more than one-eighth inch beyond the cylindrical body of the head. Push sticks or push blocks shall be provided at the work place in the several sizes and types suitable for the work to be done.	9.3.4.1 The hazard of jointing pieces that are too short is excessive. Minimum length of the piece jointed should be not less than four times the width of the bed opening. Neither half of the jointer table shall be adjusted horizontally so that the clearance between the edge of the table and the revolving knives is more than 1/4 inch. The knife blade shall be so installed and adjusted that it does not protrude more than 1/8 inch beyond the cylindrical body of the head. Push sticks or push blocks shall be provided at the workplace.	(s)(12) Comments are solicited on a suggestion to modify the existing standard to incorporate the following requirements: 1. Limiting the minimum length of pieces to be jointed to not less than four times the width of the bed opening and 2. Limiting the horizontal table adjustment to not exceeding 1/4 inch from table edge to the knives.
(13) Whenever veneer slicers or rotary veneer-cutting machines have been shutdown for the purpose of inserting logs or to make adjustments, operators shall make sure that machine is clear and other workmen are not in a hazardous position before starting the machine.	No equivalent	
(14) Operators shall not ride the carriage of a veneer slicer.	No equivalent	

Present Standard	Latest ANSI Standard	Comments
1910.214	01.1-1975	
		1. Definitions appropriate for the cooperage industry will be selected from §1910.211(a) and included in §1910.214. 2. A scope shall be developed for cooperage and included in §1910.214. It has been suggested that the cooperage requirements be combined under §1910.213 (Woodworking). Comments and information are solicited to determine if the basic hazards, equipment and methods of machine safeguarding differ sufficiently to warrant a continued separation of the two sections.
(a) Heading bolt sawing machine. (1) Each heading saw shall be guarded by a hood curved to the contour of the saw. The hood shall cover the saw at least to the depth of the teeth, except for that portion actually used in making the cut. The exhaust hood shall be so arranged and maintained as to guard effectively the bottom portion of the saw. The hood shall be made of adequate strength to resist strains incidental to reasonable operation.	8.2 Saws 8.2.1 Heading Bolt Sawing Machine 8.2.1.1 Each heading saw blade shall be guarded by a hood curved to the contour of the blade. The hood shall cover the saw at least to the depth of the teeth, except for that portion actually used in making the cut. The exhaust hood shall be so arranged and maintained as to guard effectively the bottom portion of the blade. The hood shall be made of adequate strength to resist strains incidental to reasonable operation, adjusting and handling and to protect the the operator from flying splinters and broken saw teeth.	
(2) The balance wheel shall be covered to enclose the rim and outside portion of the wheel. Expanded metal curved to fit the contour of the wheel is recommended.	8.2.1.2 The balance wheel shall be covered to enclose the rim and outside portion of the wheel.	(a)(2) Comments information are solicited as to whether the strength of the guard for a balance wheel should be specified. Would identifying the hazards to protect against be sufficient to determine the construction criteria? What are the hazards?

Present Standard	Latest ANSI Standard	Comments
1910.214	01.1-1975	
(3) The swing carriage shall be provided with an effective device that will return the carriage automatically to a position in front of the saw. Such a device shall not depend entirely upon any rope, cord, or spring for its proper functioning. If a counterweight is used, a safety chain shall be attached to it to prevent dropping, should the bar break or the weight become disengaged. All bolts supporting the bar, weight, and chain shall be provided with cotter pins or safety effective devices. A bolt shall be put through the extreme end of the counterweight bar to prevent dropping of the weight.	8.2.1.3 The swing carriage shall be provided with an effective device that will return the carriage automatically to a position in front of the saw.	(a)(3) Comments are solicited to determine whether or not sufficient guidance and operator protection would be provided without the availability of design criteria for the use of a counterweight on the swing carriage of a head bolt sawing machine. Examples are requested of effective devices now being used to return the carriage to a position in front of the saw.
(4) A limit stop shall be provided to prevent the carriage from swinging far back and thereby exposing the unguarded portion of the saw to contact.	8.2.1.4 A limit stop shall be provided to prevent the carriage from swinging too far back and thereby exposing the unguarded portion of the blade to contact.	
No equivalent	8.2.2 Hand-Fed Flat Table-Type Heading Saw. The saw blade shall be guarded by a hood curved to the contour of the blade and mounted on the table top in such a manner as to completely cover the blade when it is not engaging the material.	8.2.2 Comments are solicited on the suggestion to expand the coverage in §1910.214 to include hand-fed flat table-type heading saw machines and the need to address a saw blade guard requirement.
(b) Bolt equalizer, stave, and heading saws (tilting table style).	8.2.3 Bolt Equalizer, Stave and Heading Saws (Tilt-Table Style)	(b) A comment has been received that "to guard effectively" could be better described in terms of the hazards to be guarded against. Other than flying splinters and broken teeth, what are the hazards? Should a strength specification be added to the guard requirement? Note 8.2.1.1 (ANSI).
(1) All heading and stave bolt equalizer saws shall be guarded by hoods, curved to the contour of the saws. The hood shall cover the saw at least to the depth of the teeth, except for that portion actually used in making the cut. The exhaust hood shall be so arranged and maintained as to guard effectively the bottom portion of the saws.	8.2.3.1 All heading and stave bolt equalizer saw blades shall be guarded by hoods, curved to the contour of the saws. The hood shall cover the blade at least to the depth of the teeth, except for that portion actually used in making the cut. The exhaust hood shall be so arranged and maintained as to guard effectively the bottom portion of the blades.	

Present Standard	Latest ANSI Standard	Comments
1910.214	01.1-1975	
(2) Hoods shall be attached to each end of the tilting table and shall extend forward to cover the portion of the saws which cannot be enclosed by a stationary guard.	8.2.3.2 Hoods shall be attached to each end of the tilting table and shall extend forward to cover the portion of the blades that cannot be enclosed by a stationary guard.	
(3) A limit stop shall be provided to prevent the table from coming too far back and thereby exposing the unguarded portion of the saws to contact.	8.2.3.3 A limit stop shall be provided to prevent the table from coming too far back and thereby exposing the unguarded portion of the saw blades to contact.	
No equivalent	8.2.3.4 Hydraulically operated saws should be guarded as outlined in 8.2.3.1.	
(c) Barrel stave saws (cylindrical saws).	8.2.4 Barrel Stave Saws (Cylindrical Saws)	
(1) Each machine of this type shall have the saw and the revolving part (head) to which the saw blade is bolted enclosed with a hinged guard to prevent accidental contact, except for that part of the saw immediately adjacent to the carriage, which is the point of operation of the saw.	8.2.4.1 Each machine of this type shall have the saw blade and the revolving part (head) to which the saw blade is bolted enclosed with a hinged guard to prevent accidental contact, except for that part of the saw blade immediately adjacent to the carriage, which is the point of operation of the saw.	
(2) The exhaust hood shall be so arranged and maintained as to guard effectively the bottom portion of the saw. The hood shall be made of adequate strength to resist strains incidental to reasonable operation.	8.2.4.2 The exhaust hood shall be so arranged and maintained as to guard effectively the bottom portion of the blade. The hood shall be made of adequate strength to resist strains incidental to reasonable operation.	
(d) Hand-fed ripsaws.	8.2.5 Hand-Fed Stave and Heading Ripsaws	
(1) Each circular hand-fed ripsaw shall be guarded with a hood. The hood shall be stationary and cover the saw to a distance of approximately three-fourths inch above the stave being ripped. This will prevent the material being cut from being raised by upward centrifugal force of the saw in cases	8.2.5.1 Each circular hand-fed stave and heading ripsaw shall be provided with a hood-type guard that will cover the blade at all times when the saw is not in use. 8.2.5.2 When the saw is in use, the hood-type guard shall enclose that portion of the blade above the the table and that portion of the blade above the material by adjusting	(d)(1) Comments are requested on the suggestion to modify the coverage in (d)(1) to include guarding the ripsaw blade when not in use as in ANSI standard 01.1-1975 (8.2.5.1). Will the use of a self adjusting hood-type guard as opposed to a stationary guard expose operators to the hazard of material

Present Standard	Latest ANSI Standard	Comments
1910.214	01.1-1975	
of pinching or binding before the stave reaches the splitter. The hood shall provide inside clearance between the top edge of saw and guard to allow an accidental blow to strike it to the table and not engage the teeth with the guard. The hood shall be constructed of heavy material, preferably metal. That portion of the saw remaining below the table shall be completely enclosed in an exhaust hood.	automatically to the thickness of the material being cut. 8.2.5.3 Hood-type guards shall be so designed and constructed as to resist blows and strains incidental to reasonable operation, adjusting, and handling to protect the operator from flying splinters and broken saw teeth.	being raised by the upward centrifugal force of the saw blade in cases of pinching and binding? The current ANSI standard does not address the hazards which are prevented by enclosing that portion of the saw blade below the table with an exhaust enclosure. What is the hazard exposure to employees without the enclosure? Is metal preferable? Why? What criteria would govern substitution of materials? Should strength requirements be given?
(2) Spreader requirements for this equipment are contained in Section 1910.213(c)(2).	8.2.5.4 Each hand-fed circular stave and heading ripsaw shall be equipped with a spreader.	
No equivalent	8.2.5.6 Radial Saws. The upper hood shall completely enclose that portion of the blade down to a point that will include the end of the saw arbor. The upper hood shall be constructed in a manner that will protect the operator from flying splinters and broken saw teeth, and will deflect sawdust away from the operator. The sides of the lower exposed portion of the blade shall be guarded to the full diameter of the blade by a device that will automatically adjust itself to the thickness of stock and remain in contact with the stock being cut.	8.2.6 The current ANSI standard incorporates a requirement for upper hood and lower blade guards to protect against operations hazards for a radial saw. How does the equipment differ from that used in woodworking? Should the same criteria apply for a 3/8 inch gullet exposure to lower guard, for the warning label? Will the use of a self adjusting lower blade guard restrict any operations? What are the operations?
(e) Self-feed stave and heading equalizer saws.	8.2.7 Self-Feed Stave and Heading Equalizer Saws	
(1) Self-feed equalizer saws shall be guarded with a hood guard which will cover the top	8.2.7.1 Self-feed equalizer saw blades shall be guarded with a hood guard that will cover the top and sides of the saw blades. The hood shall adjust itself automatically to the	

Present Standard	Latest ANSI Standard	Comments
1910.214	01.1-1975	
and sides of the saws. The hood should adjust itself automatically to the thickness of, and remain in contact with, the material being cut.	thickness of, and remain in contact with, the material being cut.	
No equivalent	8.2.7.2 The hood shall be constructed of material sufficiently heavy to serve as a hold-down device while the stave is passing between the blades.	8.2.7.2 Comments are solicited to determine whether or not a weight requirement for the hood guard can substitute for a holddown device and be as effective in reducing the hazard of a stave being thrown from a machine. What criteria could better define the words "sufficiently heavy"?
(2) The portion of the saw blade extending beneath the mandrel shall be enclosed in an exhaust hood and be easily accessible for changing saws.	8.2.7.3 The portion of the saw blade extending beneath the arbor shall be enclosed in an exhaust hood and be easily accessible for changing blades.	
(f) Stave and heading planers (single and double heads).	8.3 Stave and Heading Planers (Single and Double Heads)	
(1) The exhaust hood, or other guards, if no exhaust system is required, shall be so arranged and maintained as to guard effectively all cutting heads and knives of single and double planers.	8.3.1 Guarding of Cutterheads. The exhaust hood, or other guards if no exhaust system is required, shall be so arranged and maintained as to guard effectively against accidental contact with all cutting heads and knives.	
(2) Feed rolls, except for such portion as may be necessary to admit stock, shall be completely enclosed.	8.3.2 Point of Operation 8.3.2.1 Feed rolls, except for such portion as may be necessary to admit stock, shall be completely enclosed. Sectional feed rolls shall be provided for heading planers. Effective antikickback devices should be provided for all heading planers, regardless of the type of feed rolls.	(f)(2) Comments are solicited to determine what hazards can be eliminated by using sectional as opposed to another type feed roll for heading planers. What are the types and availability of antikickback devices for use on the machine?

Present Standard	Latest ANSI Standard	Comments
1910.214	01.1-1975	
(3) Presure bars or holddown arrangements shall be properly adjusted to assure correct pressure and clearance at all tines.	8.3.2.2 Pressure bars or hold-down arrangements shall be provided to assure correct pressure and clearance at all times.	
(g) Stave jointing machines (wheel).		
(1) Stave jointer wheels shall be covered on both sides with a removable metal hood connected to the exhaust system, except for that portion where the stock is applied to the knives.	8.4.1 Stave jointer wheels shall be covered on both sides with a removable metal hood connected to the exhaust system, except for that portion where the stock is applied to the stock is applied to the knives.	(g)(1) Comments and information are solicited on the hazard exposure requiring the need to specify the use of metal guard material for stave jointer wheels. Should other types of materials be permitted and if so what should the strength criteria be?
(2) A limit stop should be installed on the frame to prevent any part of the carriage from coming in contact with any moving part of the wheel.	8.4.2 A limit stop shall be provided to prevent any part of the carriage from coming in contact with any moving part of the wheel.	
(3) The equipment described in subparagraphs (1) and (2) of this paragraph include double independent stave jointer wheels, double jointer stave wheels, single jointer stave wheels, and all kinds of keg stave jointer wheels.	8.4 Stave Jointing Wheels. Requirements for guarding double independent stave jointer wheels, double jointer stave wheels, single jointer stave wheels, and all kinds of keg stave jointer wheels are as given in 8.4.1 and 8.4.2.	
(h) Heading jointer and doweler machine (wheel).	8.5 Guarding of Heading Jointer and Doweler Machine (Wheel)	
(1) Each heading jointer shall be equipped with a removable guard covering the upper half of the wheel, except for that portion where the stock is applied to the knives.	8.5.1 Each heading jointer shall be equipped with a removable guard covering the upper half of the wheel, except for that portion where the stock is applied to the knives.	
(2) The lower portion of the wheel shall be guarded with sheet metal or expanded metal to prevent accidental contact with the knives.	8.5.2 The lower portion of the wheel shall be guarded to prevent accidental contact with the knives.	(h)(2) Comments and suggestions are solicited as to whether OSHA should permit the use of guards other than those made of metal. What types of materials should be permitted?

Present Standard	Latest ANSI Standard	Comments
1910.214	01.1-1975	
		What additional hazards can be anticipated with substitutions for the current metal requirement? Should a strength specification be given, and if so what should it be?
No equivalent	8.5.3 Dowel bit pulleys and belts shall be guarded.	
(i) Heading rounder. The cutter head shall be enclosed in a hood attached to the exhaust system, arranged and maintained in such a manner as to guard effectively the entire cutting mechanism, except for that portion of the cutting head where the stock is applied.	8.6 Guarding of Heading Rounder. The cutterhead shall be enclosed in a hood attached to the exhaust system, except for that portion of the cutting head where the stock is applied.	
(j) Power windlass machine. Windlass machines having counterweight shall operate with the weights in a stationary casing. On all machines having a friction gear, the gear shall be properly guarded.	8.7 Guarding of Power Windlass Machine. Windlass machines having counterweight shall operate with the weights in a stationary casing. On all machines having a friction gear, the gear shall be properly guarded.	
(k) Crozing machine (stationary heads). Feed chains and sprockets shall be completely enclosed. This includes all types of barrel, keg, bucket, tub, and individual stave crozers, chamfering, crozing, and doweling machines.	8.8 Crozing Machines (Stationary Heads). Requirements for guarding all types of barrel, keg, bucket, tub, and individual stave crozers, chamfering, and doweling machines are as follows: Feed chains and sprockets shall be completely enclosed.	
(l) Heading-up machine. The outside portion and teeth of both drive gears for the racks shall be completely guarded. This includes all types of heading-up machines.	8.9 Guarding of Gear-Driven Heading-up Machines. Drives gears for the racks shall be completely guarded.	

Present Standard	Latest ANSI Standard	Comments
1910.214	01.1-1975	
(m) Head charring machine. All tripping mechanisms shall be completely guarded.	8.10 Guarding of Head-Charring Machine. All tripping mechanisms shall be completely guarded.	
(n) Bilge truss hoop ring removing machine.	8.11 Bilge- and Head-Truss Hoop Ring-Removing Machines. Horizontal and upright-type machines shall be guarded as in 8.11.1 and 8.11.2.	
(1) Both eccentric cams and gear works on horizontal machines shall be guarded.	8.11.1 Both eccentric cams and gear works on horizontal machines shall be guarded.	
(2) Combined flywheel and gear shall be completely enclosed by a guard. This includes the horizontal and upright-type machines.	8.11.2 Combined flywheel and gear shall be completely enclosed.	
(o) Hoop elevators and conveyors. Lower sprockets and chains shall be guarded by complete enclosure to a height of at least 7 feet.	8.12 Guarding of Hoop Elevators and Conveyors. Lower sprockets and chains shall be guarded by complete enclosure to a height of at least 7 feet.	
(p) Barrel sanding machine. Belt sanding machines shall be provided with guards at each nip point where the sanding belt runs onto a pulley. This guard may be a part of the exhaust system. The unused run of the sanding belt shall be enclosed.	8.13 Guarding of Barrel-Sanding Machine. Belt sanding machines shall be provided with guards at each nip point where the sanding belt runs onto a pully. This guard may be a part of the exhaust system. The unused run of the sanding belt shall be enclosed.	
(q) Hoop drivers and trussers. (1) All friction pulleys shall be enclosed by a guard. A hinged gate should be provided for that portion of the guard covering adjustments to the friction blocks.	8.14 Hoop Drivers and Trussers. Requirements for guarding keg hoops, tin barrel hoops, truss hoops, and both screw and rack and pinion-type hoop drivers are as follows: All friction pulleys shall be enclosed by a guard. A hinged gate should be provided for that portion of the guard covering adjustments to the friction blocks.	

Present Standard	Latest ANSI Standard	Comments
1910.214	01.1-1975	
(2) The foregoing recommendation covers drivers for keg hoops, tin barrel hoops, truss hoops, and both screw and rack and pinion-type hoop drivers.		
(r) Head sanding machine. The exhaust hood of automatic horizontal disk head sanders shall be so arranged as to enclose each disk, except for that portion necessary for the application of the barrel being finished.	8.15.2 Machine Sanders. The exhaust hood of automatic horizontal disk-head sanders shall be so arranged as to enclose each disk, except for that portion necessary for the application of the heads being finished.	
(s) Hand jointer. All hand-fed jointers shall be guarded in accordance with the provisions of §1910.213(j).	8.16 Hand Jointer. All horizontal hand-fed jointers shall comply with 6.3.	
(t) Hoop punching and coiling machine. Miter gears, spur gears, drive pulley, and pulley for coiling attachment shall be guarded. This includes the horizontal hoop punching and coiling machine as well as the upright hoop punching machine.	8.17 Hoop-Punching and Coiling Machine. Guarding of horizontal and upright hoop-punching machines and of coiling machines shall be as follows: miter gears, spur gears, drive pulley, and pulley for coiling attachment shall be guarded.	
(u) Hoop riveting machine. The balance and drive wheels shall be effectively guarded. This includes automatic single, and double hoop riveters.	8.18 Hoop-Riveting Machine. Guarding of automatic, single-, and double-hoop riveters shall be as follows: The balance and drive wheels shall be effectively guarded.	
No equivalent	8.20 Bung-Boring Machine. The reamer shall completely enclosed when not engaging the wood.	8.20 Comments are requested on the suggestion to expand the coverage in §1910.214 to include a bung-boring machine.
No equivalent	8.21 Hogs 8.21.1 Hog mills shall be so designed and arranged that from no position on the rim of	8.21 Comments are requested on the suggestion to expand coverage in §1910.214 to address the hazards for hog mills as in the

Present Standard	Latest ANSI Standard	Comments
1910.214	01.1-1975	
No equivalent	the chute shall the distance to the cutter knives be less than 40 inches. 8.21.2 Hog feed chutes shall be provided with suitable and approved baffles, which shall minimize material being thrown from the mill.	ANSI standard 01.1-1975 (8.21.1-8.21.3).
No equivalent	8.21.3 Employees feeding hog mills shall be provided with safety belts and lifelines, unless guardes.	
(v) Hoop flaring and expanding machine. Gearing shall be completely enclosed.	8.19 Guarding of Hoop Flaring and Expanding machine. Gearing shall be completely enclosed.	
(w) Inspection and maintenance of cooperage machinery. For inspection and maintenance of cooperage machinery see §1910.213(s).	See 9.1 for inspection and maintenance.	(w) Same comments solicited as in 1910.213(s)

Present Standard	Latest ANSI Standard	Comments
1910.215 ABRASIVE WHEEL MACHINERY		The appropriate definitions for this section are found in section 1910.211(b). Comments are requested regarding the suitability and adequacy of the following suggested scope statement for this standard. This standard provides for proper equipment and safe practices to be used in grinding operations where material is removed from workpieces constructed of materials such as metal, masonry, concrete, glass, ceramics, plastics, and rubber by using a revolving abrasive wheel. Grinding operations using sandstone, pulpstone, and abrasive coated discs of metal, wood, cloth, or paper are not included.
	The American National Standards Institute (ANSI) has not changed the original source standard ANSI B7.1-1970 "Safety Code for the Use, Care, and Protection of abrasive wheels" from which the current 1910.215 is derived. Therefore, the ANSI standard is not reprinted here.	Changes proposed in Tentative ANSI draft B7.1-1976 prepared by the Technical Committee for B7 (Tentative ANSI B7.1) are referred to at various points.

Present Standard	Latest ANSI Standard	Comments
1910.215		
(a) General requirements.		
(1) Machine guarding. Abrasive wheels shall be used only on machines provided with safety guards as defined in the following paragraphs of this section, except:		(a)(1) Tentative ANSI B7.1 proposes that safety guards should not be required with notched, segmented or continuous rim metal centered diamond lapidary wheels used with coolant deflectors when operated at speeds up to 3500 SFPM and Type 1 reinforced wheels not more than 2 inches in diameter and 1/4 inch in thickness. Does the elimination of these guards create significant employee hazards? Are any other safety measures required if these practices are permitted?
(i) Wheels used for internal work while within the work being ground;		
(ii) Mounted wheels, used in portable operations, 2 inches and smaller in diameter; and		
(iii) Types 16, 17, 18, 18R, and 19 cones, plugs, and threaded hole pot balls where the work offers protection.		
(2) Guard design. The safety guard shall cover the spindle end, nut, and flange projections. The safety guard shall be mounted so as to maintain proper alignment with the wheel, and the strength of the fastenings shall exceed the strength of the guard, except:		

Present Standard	Latest ANSI Standard	Comments
1910.215		
(i) Safety guards on all operations where the work provides a suitable measure of protection to the operator, may be so constructed that the spindle end, nut, and outer flange are exposed; and where the nature of the work is such as to entirely cover the side of the wheel, the side covers of the guard may be omitted; and		
(ii) The spindle end, nut, and outer flange may be exposed on machines designed as portable saws.		(a)(2)(ii) The Tentative ANSI B7.1 proposes that the spindle end, nut and outer flange may be exposed on masonry and concrete saws. Does this exception create any hazards to employee safety? Should any other machines also be excepted? The Tentative ANSI B7.1 proposes that the spindle end, nut and outer flange may be exposed at the bottom of the stroke on cutting-off machines equipped with stationary guards. Does the elimination of a safety guard covering the spindle end, nut and outer flange on these machines create any hazard to employees?
(3) Flanges. Grinding machines shall be equipped with flanges in accordance with paragraph (c) of this section.		

Present Standard	Latest ANSI Standard	Comments
1910.215 (4) Work rests. On offhand grinding machines, work rests shall be used to support the work. They shall be of rigid construction and designed to be adjustable to compensate for wheel wear. Work rests shall be kept adjusted closely to wheel with a maximum opening of one-eighth inch to prevent the work from being jammed between the wheel and the rest, which may cause wheel breakage. The work rest shall be securely clamped after each adjustment. The adjustment shall not be made with the wheel in motion.		(a)(4) Comments are requested on the American Foundrymen's Society petition to OSHA to delete the 1/8 inch maximum opening requirement and to permit larger openings proportional to the size of the piece being ground. Should OSHA permit light freehand grinding without the use of a workrest as proposed in a variance request submitted by Mohawk Tools, Inc. Is the additional degree of hazard acceptable? How can this practice be limited to only those cases where it might be necessary to not use work rests? Are any other safety measures required if this practice is permitted? Tentative ANSI B7.1 proposes that work rests should not be required when grinding large pieces supported by overhead hoists. Does the absence of a work rest in this situation create a greater degree of hazard to employee safety? Tentative ANSI B7.1 proposes that adjustment of the work rest while the wheel is rotating be permitted with variable speed machines having control linkages attached to the work rest. Would permitting the adjustment of work rests in this situation create a hazard to employee safety?

Present Standard	Latest ANSI Standard	Comments
1910.215 (5) Excluded machinery. Natural sandstone wheels and metal, wooden, cloth, or paper discs, having a layer of abrasive on the surface are not covered by this section. (b) Guarding of abrasive wheel machinery. (1) Cup wheels. Cup wheels (Types 6 and 11) shall be protected by: (i) Safety guards as specified in subparagraphs (1) through (10) of this paragraph; (ii) Band type guards as specified in subparagraph (11) of this paragraph; and (iii) Special "Revolving Cup Guards" which mount behind the wheel and turn with it. They shall be made of steel or shall enclose the wheel sides upward from the back for one-third of the wheel thickness. The mounting features shall conform with all requirements of this section. It is necessary to maintain clearance between the wheel side and the guard. This clearance shall not exceed one-sixteenth inch.		(b)(1)(iii) Should revolving cup guards be banned after a specified period as suggested by ANSI B7.1 and, if so, why?

Present Standard	Latest ANSI Standard	Comments
1910.215		
(2) Guard exposure angles. The maximum exposure angles specified in subparagraphs (3) through (8) of this paragraph shall not be exceeded. Visors or other accessory equipment shall be included as a part of the guard when measuring the guard opening, unless such equipment has strength equal to that of the guard.		(b)(2) Correspondence received by OSHA indicates that an explanantion should be included stating that the exposure angle of a guard is measured from the center of the spindle. Diagrams in Tentative ANSI B7.1 have been changed to better reflect this.
(3) Bench and floor stands. The angular exposure of the grinding wheel periphery and sides for safety guards used on machines known as bench and floor stands should not exceed 90° or one-fourth of the periphery. This exposure shall begin at a point not more than 65° above the horizontal plane of the wheel spindle. (See Figures O-6 and O-7 and subparagraph (9) of this paragraph.)		
Wherever the nature of the work requires contact with the wheel below the horizontal plane of the spindle, the exposure shall not exceed 125°. (See Figures O-8 and O-9.)		
(4) Cylindrical grinders. The maximum angular exposure of the grinding wheel periphery and sides for safety guards used on cylindrical grinding machines shall not exceed 180°. This exposure shall begin at a point not more than 65° above the horizontal plane of the wheel spindle. (See Figures O-10 and O-11 and subparagraph (9) of this paragraph.)		

Present Standard	Latest ANSI Standard	Comments
1910.215		
(5) Surface grinders and cutting-off machines. The maximum angular exposure for safety guards used on cutting-off machines and on surface grinding machines which employ the wheel periphery shall not exceed 150°. This exposure shall begin at a point not less than 15° below the horizontal plane of the wheel spindle. (See Figures O-12 and O-13.)		
(6) Swing frame grinders. The maximum angular exposure of the grinding wheel periphery and sides for safety guards used on machines known as swing frame grinding machines shall not exceed 180°, and the top half of the wheel shall be enclosed at all times. (See Figures O-14 and O-15.)		
(7) Automatic snagging machines. The maximum angular exposure of the grinding wheel periphery and sides for safety guards used on grinders known as automatic snagging machines shall not exceed 180° and the top half of the wheel shall be enclosed at all times. (See Figures O-14 and O-15.)		
(8) Top grinding. Where the work is applied to the wheel above the horizontal centerline, the exposure of the grinding wheel periphery shall be as small as possible and shall not exceed 60°. (See Figures O-16 and O-17.)		

Present Standard	Latest ANSI Standard	Comments
1910.215		
(9) Exposure adjustment. Safety guards of the types described in subparagraphs (3) and (4) of this paragraph, where the operator stands in front of the opening, shall be constructed so that the peripheral protecting member can be adjusted to the constantly decreasing diameter of the wheel. The maximum angular exposure above the horizontal plane of the wheel spindle as specified in subparagraphs (3) and (4) of this paragraph shall never be exceeded, and the distance between the wheel periphery and the adjustable tongue or the end of the peripheral member at the top shall never exceed one-fourth inch. (See Figures O-18, O-19, O-20, O-21, O-22, and O-23.)		(b)(9) The Tentative ANSI B7.1 proposes that an adjustable tongue not be required on bench grinders with wheels 5 inches in diameter or less operating at speeds less than 5000 SFPM and powered by machines not greater than 1/10 horsepower. Does the elimination of an adjustable tongue on these bench grinders create any hazards to employee safety?
(10) Material requirements and minimum dimensions.		(b)(10) Should safety guards constructed of other materials which provide the equivalent strength, impact resistance, and rigidity as those listed here be permitted? Are there any materials which should not be permitted?
(i) See Figures O-36 and O-37 and Table O-9 for minimum basic thickness of peripheral and side members for various types of safety guards and classes of service.		
(ii) If operating speed does not exceed 8,000 surface feet per minute, cast iron safety guards, malleable iron guards or other guards as described in subparagraph (10)(iii) of this paragraph shall be used.		

Present Standard	Latest ANSI Standard	Comments
1910.215		
(iii) Cast steel, or structural steel, safety guards as specified in Figures O-36 and O-37 and Table O-9 shall be used where operating speeds of wheels are faster than 8,000 surface feet per minute up to a maximum of 16,000 surface feet per minute.		
(iv) For cutting-off wheels 16 inches diameter and smaller and where speed does not exceed 16,000 surface feet per minute, cast iron or malleable iron safety guards as specified in Figures O-36 and O-37, and in Table O-9 shall be used.		
(v) For cutting-off wheels larger than 16 inches diameter and where speed does not exceed 14,200 surface feet per minute, safety guards as specified in Figures O-27 and)-28, and in Table O-1 shall be used.		
(vi) For thred grinding wheels not exceeding one inch in thickness cast iron or malleable iron safety guards as specified in Figures O-36 and O-37, and in Table O-9 shall be used.		
(11) Band type guards—general specifications. Band type guards shall conform to the following general specifications:		(b)(11) Should access doors be permitted on band guards used on segment wheels as proposed in Tentative ANSI B7.1? If so, are rules necessary to insure that the access door does not present a hazard to employees?

Present Standard	Latest ANSI Standard	Comments
1910.215 (i) The bands shall be of steel plate or other material of equal or greater strength. They shall be continuous, the ends being either riveted, bolted, or welded together in such a manner as to leave the inside free from projections. (ii) The inside diameter of the band shall not be more than 1 inch larger than the outside diameter of the wheel, and shall be mounted as nearly concentric with the wheel as practicable. (iii) The band shall be of sufficient width and its position kept so adjusted that at no time will the wheel protrude beyond the edge of the band a distance greater than that indicated in Figure O-29 and in Table O-2 or the wall thickness (W), whichever is smaller. (12) Guard design specifications. Abrasive wheel machinery guards shall meet the design specifications of the American National Standard Safety Code for the Use, Care, and Protection of Abrasive Wheels, ANSI B7.1-1970. This requirement shall not apply to natural sandstone wheels or metal, wooden, cloth, or paper discs, having a layer of abrasive on the surface.		

Present Standard	Latest ANSI Standard	Comments
1910.215		
(c) Flanges.		
(1) General requirements. All abrasive wheels shall be mounted between flanges which shall not be less than one-third the diameter of the wheel.		
(i) Exceptions:		
(a) Mounted wheels.		
(b) Portable wheels with threaded inserts or projecting studs.		(c)(1)(i)(b) Should this be clarified by substituting "Portable cup, cone, or plug wheels" for "Portable wheels?"
(c) Abrasive discs (inserted nut, inserted washer and projecting stud type).		
(d) Plate mounted wheels.		
(e) Cylinders, cup, or segmental wheels that are mounted in chucks.		
(f) Types 27 and 28 wheels.		
(g) Certain internal wheels.		(c)(1)(i)(g) The Tentative ANSI B7.1 limits the exception of internal wheels to those which are less than 2 inches in diameter. Comments are solicited on the appropriateness of this exception.
(h) Modified types 6 and 11 wheels (terrazzo).		

Present Standard	Latest ANSI Standard	Comments
1910.215		
(i) Cutting-off wheels, Types 1 and 27A (see subdivisions (ii) and (iii) of this subparagraph).		(c)(i)(i)(i) The Tentative ANSI B7.1 proposes that reinforced abrasive or steel centered diamond masonry cut-off wheels 18 inches and 20 inches in diameter be equipped with flanges not less than 4 inches in diameter and that steel centered diamond concrete cut-off wheels 20 inches in diameter and larger be equipped with flanges not less than 1/6 the wheel diameter. Information is solicited regarding experiences with such small flanges.
(ii) Type 1 cutting-off wheels are to be mounted between properly relieved flanges which have matching bearing surfaces. Such flanges shall be at least one-fourth the wheel diameter.		
(iii) Type 27A cutting-off wheels are designed to be mounted by means of flat, not relieved, flanges having matching bearing surfaces and which may be less than one-third but shall not be less than one-fourth the wheel diameter. (See Figure O-24 for one such type of mounting.)		

Present Standard	Latest ANSI Standard	Comments
1910.215		

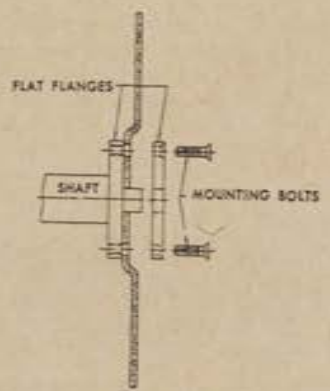


FIGURE NO. 0-24

The Type 27A Wheel is mounted between flat non-relieved flanges of equal bearing surfaces.

(iv) There are three general types of flanges:

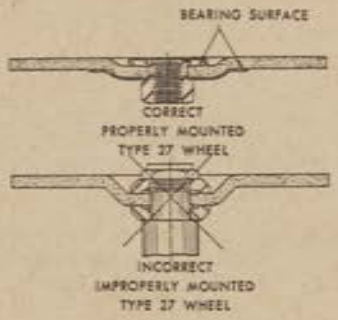
(a) straight relieved flanges (see Figure 0-32);

(b) straight unrelieved flanges (see Figure 0-30);

(c) adaptor flanges (see Figures 0-33 and 0-34);

Present Standard	Latest ANSI Standard	Comments
1910.215		
(v) Regardless of flange type used, the wheel shall always be guarded. Blotters shall be used in accordance with subparagraph (6) of this paragraph.		
(2) Design and material.		
(i) Flanges shall be of such design as to satisfactorily transmit the driving torque from the spindle to the grinding wheel.		
(ii) Flanges may be made of steel, cast iron, or other material of equal or greater strength and rigidity.		
(iii) Flanges shall be designed with respect to rigidity so that when tightened, the radial width of bearing surface of contact on the wheel is maintained. (See Table O-6 and Figure O-32.)		
(3) Finish and balance. Flanges shall be dimensionally accurate and in good balance. There shall be no rough surfaces or sharp edges.		
(4) Uniformity of diameter.		
(i) Both flanges, of any type, between which a wheel is mounted, shall be of the same diameter and have equal bearing surface. Exceptions are set forth in the remaining subdivisions of this subparagraph.		

Present Standard	Latest ANSI Standard	Comments
1910.215 (11) Type 27 and Type 28 wheels, because of their shape and usage, require specially designed adaptors. The back flange shall extend beyond the central hub or raised portion and contact the wheel to counteract the side pressure on the wheel in use. The adaptor nut which is less than the minimum one-third diameter of wheel fits in the depressed side of wheel to prevent interference in side grinding and serves to drive the wheel by its clamping force against the depressed portion of the back flange. The variance in flange diameters, the adaptor nut being less than one-third wheel diameter, and the use of side pressure in wheel operation limits the use to reinforced organic bonded wheels. Mounts which are affixed to the wheel by the manufacturer shall not be reused. Type 27 and Type 28 wheels shall be used only with a safety guard located between wheel and operator during use. (See Figure O-24-A.)		

Present Standard	Latest ANSI Standard	Comments
1910.215 **FIGURE NO. 0-24-A**  *Types 27 and 28 wheels, because of their shape, require specially designed adaptors.* (iii) Modified Types 6 and 11 wheels (terrazzo) with tapered K dimension.		(c)(4)(iv) The Tentative ANSI B7.1 proposes that another exception be internal wheels less than 2 inches in diameter. Comments are solicited on whether the adoption of this exception would affect employee safety.

Present Standard	Latest ANSI Standard	Comments
1910.215 (5) Recess and undercut. (i) Straight relieved flanges made according to Table O-6 and Figure O-32 shall be recessed at least one-sixteenth inch on the side next to the wheel for a distance as specified in Table O-6. (ii) Straight flanges of the adaptor or sleeve type (Table O-7 and Figures O-33 and O-34) shall be undercut so that there will be no bearing on the sides of the wheel within one-eighth inch of the arbor hole. (6) Blotters. (i) Blotters (compressible washers) shall always be used between flanges and abrasive wheel surfaces to insure uniform distribution of flange pressure. (See paragraph (d)(5) of this section.) (ii) Exception: (a) Mounted wheels. (b) Abrasive discs (inserted nut, inserted washer, and projecting stud type). (c) Plate mounted wheels. (d) Cylinders, cups, or segmental wheels that are mounted in chucks.		

Present Standard	Latest ANSI Standard	Comments
1910.215		
(e) Types 27 and 28 wheels.		
(f) Certain Type 1 and Type 27A cutting-off wheels.		
(g) Certain internal wheels.		(c)(6)(ii)(g) Should this be restricted to internal wheels less than 2 inches in diameter as proposed in tentative ANSI B7.1?
(h) Type 4 tapered wheels.		(c)(6)(ii)(h) Should Type 4 wheels be deleted from the exceptions and do they require blotters as proposed in tentative ANSI B7.1?
(i) Diamond wheels, except certain vitrified diamond wheels.		(c)(6)(ii)(i) Comments are requested on changing this to read diamond and cubic boron nitride wheels as proposed in tentative ANSI B7.1.
(j) Modified Types 6 and 11 wheel (terrazzo)—blotters applied flat side of wheel only.		
(7) Driving flange. The driving flange shall be securely fastened to the spindle and the bearing surface shall run true. When more than one wheel is mounted between a single set of flanges, wheels may be cemented together or separated by specially designed spacers. Spacers shall be equal in diameter to the mounting flanges and have equal bearing surfaces. (See paragraph (d)(6) of this section.)		(c)(7) The Tentative ANSI B7.1 proposes that driving flanges on bench grinders with wheels 8 inches or less in diameter and powered by machines not greater than 3/4 horsepower do not have to be fastened to the spindle.

Present Standard	Latest ANSI Standard	Comments
1910.215		
(8) Dimensions.		(c)(8) There are questions as to whether or not sections such as this one and the detailed figures and tables associated with it should be retained. Is this information useful and does it significantly enhance employee safety? Is the information presented here too restrictive?
(i) Tables O-4 and O-6 and Figures O-30 and O-32 show minimum dimensions for straight relieved and unrelieved flanges for use with wheels with small holes that fit directly on the machine spindle. Dimensions of such flanges shall never be less than indicated and should be greater where practicable.		
(ii) Table O-5, and Table O-7 and Figures O-31, O-33, O-34 show minimum dimensions for straight adaptor figures for use with wheels having holes larger than the spindle. Dimensions of such adaptor flanges shall never be less than indicated and should be greater where practicable.		
(iii) Table O-8 and Figure O-35 show minimum dimensions for straight flanges that are an integral part of wheel sleeves which are frequently used on precision grinding machines. Dimensions of such flanges shall never be less than indicated and should be greater where practicable.		

Present Standard	Latest ANSI Standard	Comments
1910.215 (9) Repairs and maintenance. All flanges shall be maintained in good condition. When the bearing surfaces become worn, warped, sprung, or damaged they should be trued or refaced. When refacing or truing, care shall be exercised to make sure that proper relief and rigidity is maintained as specified in subparagraphs (2) and (5) of this paragraph and they shall be replaced when they do not conform to these subparagraphs and Table O-4, Figure O-30-, Table O-5, Figure O-31, Table O-6, Figure O-32, and Table O-8, Figure O-35. Failure to observe these rules might cause excessive flange pressure around the hole of the wheel. This is specially true of wheel-sleeve or adaptor flanges. (d) Mounting. (1) Inspection. Immediately before mounting, all wheels shall be closely inspected and sounded by the user (ring test) to make sure they have not been damaged in transit, storage, or otherwise. The spindle speed of the machine shall be checked before mounting of the wheel to be certain that it does not exceed the maximum operating speed marked on the wheel. Wheels should be taped gently with a light nonmetallic implement, such as the handle of a screwdriver for light wheels, or a wooden mallet for heavier wheels. If they sound cracked (dead), they shall not be used. This is known as the "Ring Test."		(d)(1) The American Foundrymen's Society has petitioned OSHA to permit alternate test methods which are at least as effective as the "ring test." The Society contends that a "vibration test" is one test which is at least as effective. Data regarding the effectiveness of the "vibration test" and any other test method deemed effective is requested.

Present Standard	Latest ANSI Standard	Comments
1910.215		
(1) Wheels must be dry and free from sawdust when applying the ring test, otherwise the sound will be deadened. It should also be noted that organic bonded wheels do not emit the same clear metallic ring as do vitrified and silicate wheels. (ii) "Tap" wheels about 45° each side of the vertical centerline and about 1 or 2 inches from the periphery as indicated by the spots in Figure O-25 and Figure O-26. Then rotate the wheel 45° and repeat the test. A sound and undamaged wheel will give a clear metallic tone. If cracked, there will be a dead sound and not a clear "ring." (2) Arbor size. Grinding wheels shall fit freely on the spindle and remain free under all grinding conditions. A controlled clearance between the wheel hole and the machine spindle (or wheel sleeves or adaptors) is essential to avoid excessive pressure from mounting and spindle expansion. To accomplish this, the machine spindle shall be made to nominal (standard) size plus zero minus .002 inch,		(d)(1) Are employees subjected to any significant hazards if wheels 4 inches in diameter and less, plugs and cones, mounted wheels, segments, plate-mounted wheels and inserted nut and projected stud disc wheels are not tested for cracks?

Present Standard	Latest ANSI Standard	Comments
1910.215		
and the wheel hole shall be made suitably oversize to assure safety clearance under the conditions of operating heat and pressure. (3) Surface condition. All contact surfaces wheels, blotters and flanges shall be flat and free of foreign matter. (4) Bushing. When a bushing is used in the wheel hole it shall not exceed the width of the wheel and shall not contact the flanges. (5) Blotters. When blotters or flange facings of compressible material are required, they shall cover entire contact area of wheel flanges. Highly compressible material such as blotting paper as normally used should not exceed .025 inch in thickness. If material of lower compressibility is used, greater thickness may be necessary. Blotters need not be used with the following types of wheels: (i) Mounted wheels. (ii) Abrasive discs (inserted nut, inserted washer, and projecting-stud type). (iii) Plate mounted wheels. (iv) Cylinders, cups, or segmental wheels that are mounted in chucks.		

Present Standard	Latest ANSI Standard	Comments
1910.215		
(v) Types 27 and 28 wheels. (vi) Certain Type 1 and Type 27A cutting-off wheels. (vii) Certain internal wheels. (viii) Type 4 tapered wheels. (ix) Diamond wheels, except certain vitrified diamond wheels.		(d)(5)(x) Since modified Type 6 and Type 11 terrazzo wheels require blotters only on the flat side of the wheel, should this be listed as exception as proposed in Tentative ANSI B7.1?
(6) Multiple wheel mounting. When more than one wheel is mounted between a single set of flanges, wheels may be cemented together or separated by specially designed spacers. Spacers shall be equal in diameter to the mounting flanges and have equal bearing surfaces. When mounting wheels which have not been cemented together, or ones which do not utilize separating spacers, care must be exercised to use wheels specially manufactured for that purpose. (7) Replacing safety guard. After mounting a wheel, care should be taken to see that the safety guard is properly positioned before starting the wheel.		

Present Standard	Latest ANSI Standard	Comments
1910.215		

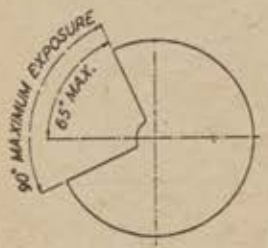


FIGURE NO. 0-6

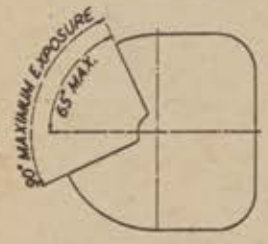


FIGURE NO. 0-7

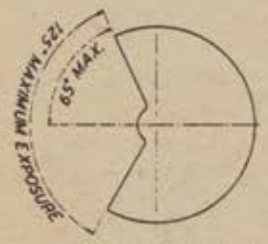
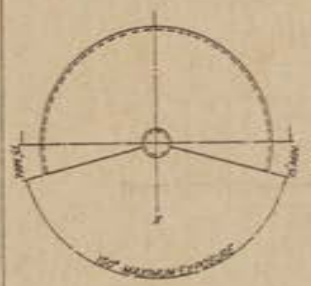


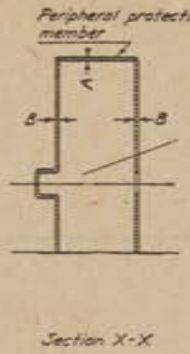
FIGURE NO. 0-8



FIGURE NO. 0-9

Present Standard	Latest ANSI Standard	Comments
1910.215		





Section X-X

FIGURE NO. 0-27

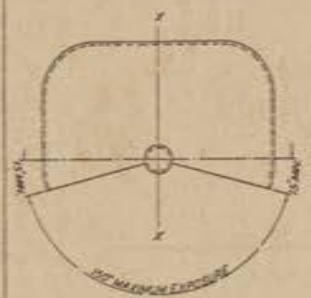


FIGURE NO. 0-28

Present Standard	Latest ANSI Standard	Comments
1910.215		



FIGURE NO. 0-10

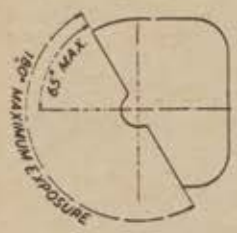


FIGURE NO. 0-11

Present Standard

1910.215

Latest ANSI Standard

Comments

TABLE O–1—MINIMUM BASIC THICKNESS FOR PERIPHERAL AND SIDE MEMBERS FOR SAFETY GUARDS USED WITH CUTTING-OFF WHEELS

Material used in construction of guard	Maximum thickness of cutting off wheel	Speed not to exceed	Cutting off wheel diameters									
			6 to 11 inches		Over 11 to 20 inches		Over 20 to 30 inches		Over 30 to 48 inches		Over 48 to 72 inches	
			A	B	A	B	A	B	A	B	A	B
Structural steel (min. tensile strength 60,000 p.s.i.)	⅛ inch or less...	14,200 SFPM....	1/16	1/16	3/32	3/32	1/8	1/8	3/16	3/16	1/4	1/4
	⅛ inch or less...	16,000 SFPM....	3/32	1/8	1/8	1/8	3/16	1/8	1/8	3/16	3/16	1/4

Present Standard	Latest ANSI Standard	Comments
1910.215		

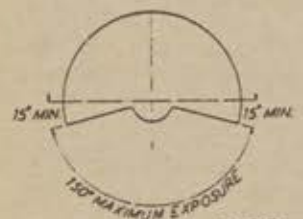


FIGURE NO. 0-12

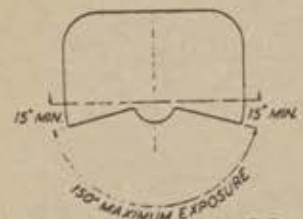


FIGURE NO. 0-13



FIGURE NO. 0-14

Present Standard	Latest ANSI Standard	Comments
1910.215		

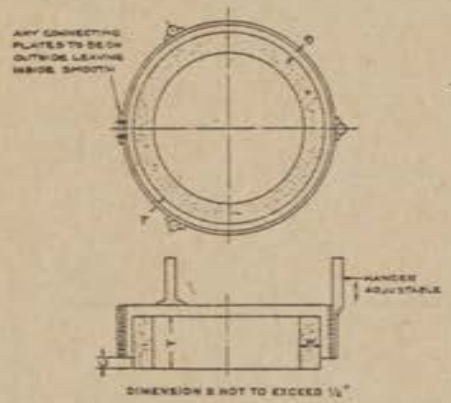


FIGURE NO. 0-29

STANDARDS AND INTERPRETATIONS

TABLE O-2—EXPOSURE VERSUS WHEEL THICKNESS

Overall thickness of wheel (T) (inches)	*Maximum exposure of wheel (C) (inches)*
½	¼
1	½
2	¾
3	1
4	1½
5 and over	2

Present Standard	Latest ANSI Standard	Comments
1910.215		



FIGURE NO. O-15



FIGURE NO. O-16



FIGURE NO. O-17

TABLE O-3—GUIDE FOR CONSTRUCTION OF BAND TYPE GUARDS

[Maximum Wheel Speed 7,000 SFPM]

Minimum material specifications	Diameter of wheel	Minimum thickness of band A	Minimum diameter of rivets	Maximum distance between centers of rivets
	Inches	*Inches*	*Inches*	*Inches*
Hot rolled steel SAE 1008	Under 8	1/16	3/16	1
	8 to 24	3/32	1/4	1 1/4
	Over 24 to 30	1/8	5/16	1 1/2

Present Standard	Latest ANSI Standard	Comments
1910.215		

Present Standard	Latest ANSI Standard	Comments
1910.215		

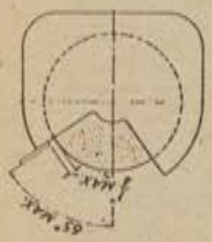


FIGURE NO. 0-19

CORRECT

Showing adjustable tongue giving required angular protection for all sizes of wheel used.

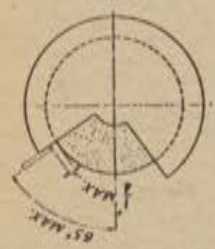


FIGURE NO. 0-18

CORRECT

Showing movable guard with opening small enough to give required protection for smallest size wheel used.

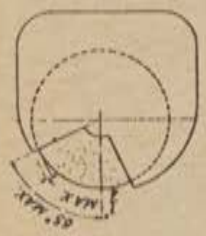


FIGURE NO. 0-21

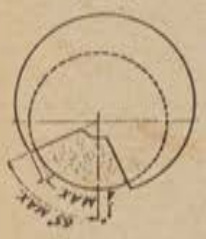


FIGURE NO. 0-20

Present Standard	Latest ANSI Standard	Comments
1910.215		

TABLE O-4—MINIMUM DIMENSIONS FOR STRAIGHT UNRELIEVED FLANGES FOR WHEELS WITH THREADED INSERTS OR PROJECTING STUDS

A	B [1]	T
Diameter of wheel	Minimum outside diameter of flange	Minimum thickness of flange
Inches	*Inches*	*Inches*
1	⅜	1/16
2	1	3/16
3	1	5/16
4	1⅜	5/16
5	1¾	¼
6	2	⅜

[1] NOTE: Must be large enough to extend beyond the bushing. Where peong anchor or cupback bushing are used, this footnote does not apply.



FIGURE NO. O-30

Driving flange secured to spindle for use only on portable wheels with threaded inserts or projecting studs.

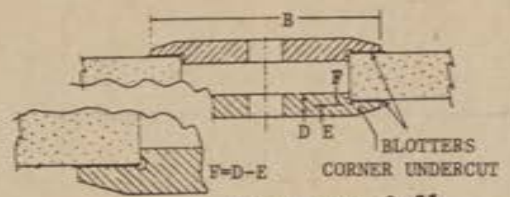


FIGURE NO. O-31

Present Standard	Latest ANSI Standard	Comments
1910.215		

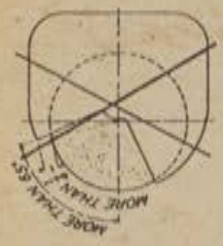


FIGURE NO. 0-22

INCORRECT

Showing movable guard with size of opening correct for full size wheel but too large for smaller wheels.



FIGURE NO. 0-23

Present Standard

1910.215

TABLE O-8—MINIMUM DIMENSIONS FOR STRAIGHT ADAPTOR FLANGE—FOR ORGANIC BONDED WHEELS OVER 1¼ INCHES THICK [1]

Wheel diameter	Wheel hole diameter	B Minimum flange diameter	D Minimum thickness of flange at bore	E Minimum thickness of flange at edge of undercut	F [1] (D)-(E) minimum thickness
Inches	*Inches*	*Inches*	*Inches*	*Inches*	*Inches*
12 to 14	4	6			
	5	7			
	6	8			
Larger than 14 to 18	4	6			
	5	7			
	6	8			
	7	9			
Larger than 18 to 24	8	10			
	6	8	1		
	7	9	1		
	8	10	1		
	10	12	1		
Larger than 24 to 30	12	14	1		
Larger than 30 to 36	12	15	1		
	19	15	1¼		

[1] For wheels under 1¼ inches thick F dimension shall not exceed 40 percent of wheel thickness.

Latest ANSI Standard

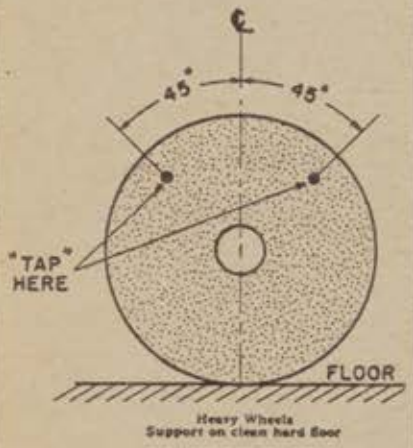
Comments

Present Standard	Latest ANSI Standard	Comments
1910.215		



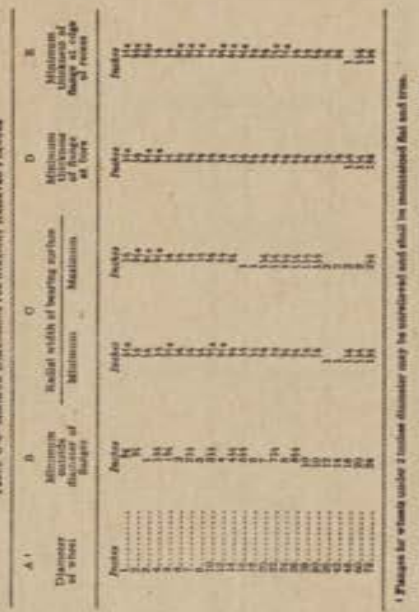
Light Wheels
Suspend from hole by small pin or finger

FIGURE NO. 0-25



Heavy Wheels
Support on clean hard floor

FIGURE NO. 0-26

Present Standard	Latest ANSI Standard	Comments
1910.215 		Does the information presented in Table O-6 enhance employee safety?

Present Standard

1910.215

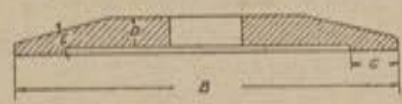


FIGURE NO. O-32

Driving flange secured to spindle.

TABLE O-7—MINIMUM DIMENSIONS FOR STRAIGHT FLANGES—FOR MECHANICAL GRINDERS 12,500 S.F.P.M. TO 15,500 S.F.P.M.[1]

Wheel diameter	Wheel hole diameter	B Minimum flange diameter	D Minimum thickness of flange at bore	E Minimum thickness of flange at edge of undercut	F[2] (D-E) minimum thickness
20	6	8	1	½	½
20	8	10	1½	¾	¾
24	12	15	2	1	1
30	12	15	2	1	1
36	12	15	2	1	1

[1] Flanges shall be of steel, quality SAE 1040 or equivalent, annealed plate, heat treated to R_c 25-30.
[2] For wheels under 1¼ inch thick F dimension shall not exceed 40 percent of wheel thickness.

Latest ANSI Standard

Comments

Present Standard

1910.215

TABLE O-6—MINIMUM DIMENSIONS FOR STRAIGHT FLANGES USED AS WHEEL SLEEVES FOR PRECISION GRINDING ONLY

Wheel diameter	Wheel hole diameter	B Minimum outside diameter of flange	D Minimum thickness of flange at bore	E Minimum thickness of flange at edge of undercut
Inches	*Inches*	*Inches*	*Inches*	*Inches*
12 to 14	5	7	1/4	1/16
Larger than 14 to 20	5	7	1/4	1/16
	6	8	1/4	1/16
	8	10	1/4	1/16
	10	11 1/4	1/4	1/16
	12	13 1/4	1/4	1/16
Larger than 20 to 30	8	10	3/8	1/16
	10	11 1/4	3/8	1/16
	12	13 1/4	3/8	1/16
	16	17 1/4	3/8	1/16
Larger than 30 to 42	12	13 1/4	3/8	1/16
	16	17 1/4	3/8	1/16
	18	19 1/4	3/8	1/16
	20	21 1/4	3/8	1/16
Larger than 42 to 60	16	20	1	1/16
	20	24	1	1/16
	24	29	1 1/16	1/16

NOTE: These flanges may be clamped together by means of a central nut, or by a series of bolts or some other equivalent means of fastening. For hole sizes smaller than shown in this table, use table 12.

Latest ANSI Standard

Comments

Present Standard	Latest ANSI Standard	Comments
1910.215		

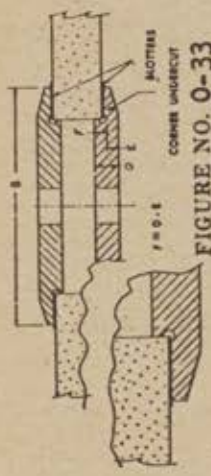


FIGURE NO. O-33
Central Nut Mounting
Driving flange secured to spindle.

FIGURE NO. O-34
Multiple Screw Mounting
Driving flange secured to spindle.

Present Standard	Latest ANSI Standard	Comments
1910.215		

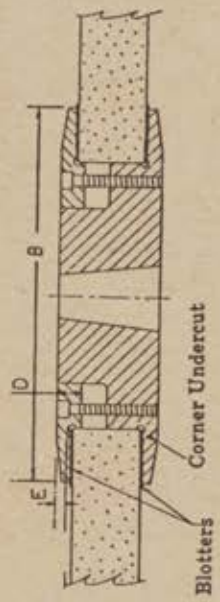


FIGURE NO. O-35

Driving flange secured to spindle.

Present Standard	Latest ANSI Standard	Comments
1910.215		

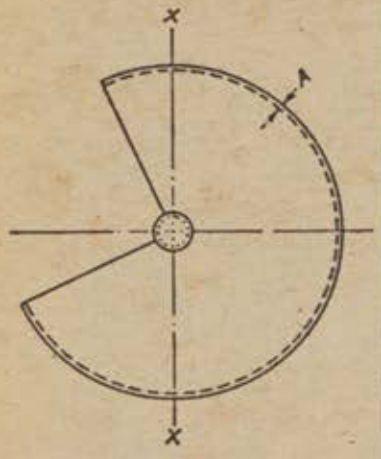
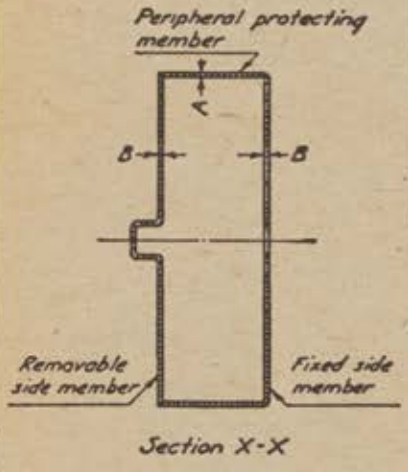


FIGURE NO. O-36



Section X-X

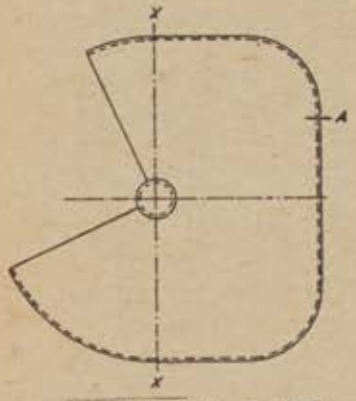


FIGURE NO. O-37

Present Standard	Latest ANSI Standard	Comments
1910.215		Table O-9 is another example of very specific information included in this standard. Should tables such as this one be retained and, if so, why?

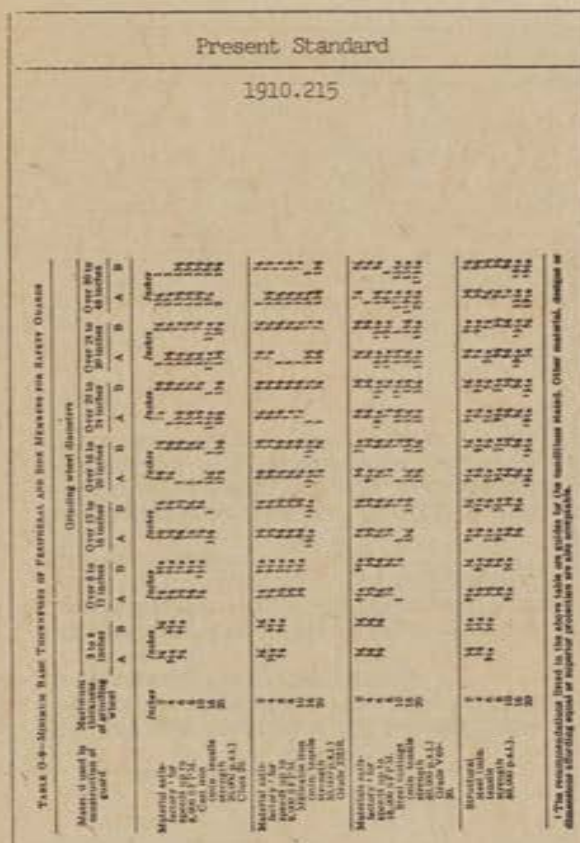


TABLE O-9—MINIMUM BASIC THICKNESS OF PERIPHERAL AND SIDE RIMMERS FOR SAFETY GUARDS

Maximum rated speed of grinding wheel	Grinding wheel diameters											
	3 to 6 inches		Over 6 to 12 inches		Over 12 to 20 inches		Over 20 to 30 inches		Over 30 to 40 inches		Over 40 to 60 inches	
	A	B	A	B	A	B	A	B	A	B	A	B
Material with tensile strength of 30,000 p.s.i. or less (cast iron, bronze, etc.) Class A-1	Inches	Inches	Inches	Inches	Inches	Inches	Inches	Inches	Inches	Inches	Inches	Inches
6,500												
8,280												
9,500												
10,000												
10,320												
11,000												
12,000												
12,500												
13,000												
13,920												
14,000												
15,000												
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Material with tensile strength of 30,001 to 36,000 p.s.i. (cast iron, bronze, etc.) Class A-2												
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10,000												
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Material with tensile strength of 36,001 to 50,000 p.s.i. (cast iron, bronze, etc.) Class A-3 Class 20 (A)												
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[1] The recommendations listed in the above table are guides for the conditions stated. Other material, design or abrasive wheel grinding equal or superior performance are also acceptable.

Present Standard	Latest ANSI Standard	Comments
1910.216 MILLS AND CALENDERS IN THE RUBBER AND PLASTICS INDUSTRIES	The American National Standard Institute (ANSI) has not changed the original source standard ANSI B28.1-1967, Mills and Calenders in the Rubber and Plastics Industries from which the current Section 1910.216 is derived. Therefore it is not reprinted here.	The definitions applicable to this section can be found in Section 1910.211(c). To these definitions it has been suggested that a definition for guarding by location be added in paragraph 1910.211(c)(4) as follows: "Guarding by location" means that a mill or calender is so installed that persons cannot normally reach through, over, under, or around to come in contact with the roll bite or be caught between a roll and an adjacent object.
(a) General requirements. (1) New installations. All new installations on or after August 31, 1971, shall be in conformity with this section. (2) Existing installations. All existing plant installations or equipment contracted for prior to August 31, 1971, shall comply with this section. (3) Auxiliary equipment. Mechanical and electrical equipment and auxiliaries shall be installed in accordance with this section and Subpart S of this part.		

Present Standard	Latest ANSI Standard	Comments
1910.216 (4) Mill roll heights. All new mill installations shall be installed so that the top of the operating rolls is not less than 50 inches above the level on which the operator stands, irrespective of the size of the mill. This distance shall apply to the actual working level, whether it be at the general floor level, in a pit, or on a platform. (b) Mill safety controls. (1) Safety trip control. A safety trip control shall be provided in front and in back of each mill. It shall be accessible and shall operate readily on contact. The safety trip control shall be one of the following types or a combination thereof. (i) Pressure-sensitive body bars. Installed at front and back of each mill having a 46-inch roll height or over. These bars shall operate readily by pressure of the mill operator's body. Pressure-sensitive body bars should be installed on new equipment. (ii) Safety triprod. Installed in the front and in the back of each mill and located within 2 inches of a vertical plane tangent to the front and rear rolls. The top rods shall be not more than 72 inches above the level on which the operator stands. The triprods shall be accessible and shall operate readily whether the rods are pushed or pulled.		(a)(4) Data is sought on the economic feasibility of bringing mills built prior to August 31, 1971, into compliance with the 50 inch mill roll height requirement.

Present Standard	Latest ANSI Standard	Comments
1910.216 (iii) Safety tripwire cable or wire center cord. Installed in the front and in the back of each mill and located within 2 inches of a vertical plan tangent to the front and rear rolls. The cables shall not be more than 72 inches above the level on which the operator stands. The tripwire cable or wire center cord shall operate readily whether cable or cord is pushed or pulled. (2) Fixed guards. A fixed bar across the front and one across the back of the mill approximately 40 inches vertically above the working level and 20 inches horizontally from the crown face of the roll should be used where they are applicable. (3) Auxiliary equipment. All auxiliary equipment such as mill divider, support bars, spray pipes, feed conveyors, strip knives, etc., shall be located in such a manner as to avoid interference with access to and operation of safety devices. (c) Calender safety controls. (1) Safety trip, face. A safety triprod, cable, or wire center cord shall be provided across each pair of in-running rolls extending the length of the face of the rolls. It shall be readily accessible and operate whether pushed or pulled. The safety tripping devices shall be located within reach of the operator and the bite.		(c)(1) It has been suggested that the safety tripping devices shall not be more than 72 inches nor less than 66 inches above the working floor or platform on which the operator standards, and shall be within easy reach of the operator when he is in normal working position.

Present Standard	Latest ANSI Standard	Comments
1910.216 (2) Safety trip, side. On both sides of calender and near each end of the face of the roll, there shall be a cable or wire center cord connected to the safety trip. These lines should be not more than 12 inches from the faces of the respective rolls and not less than 2 inches from the calender frame. They should be anchored to the frame not more than 6 inches from the floor or operator's platform. They shall operate readily when pushed or pulled. (d) Protection by location. (1) Mills. Where a mill is so installed that persons cannot normally reach through, over, under, or around to come in contact with the roll bite or be caught between a roll and an adjacent object, then, provided such elements are made a fixed part of a mill, safety control devices listed in paragraph (b) of this section shall not apply. (2) Calenders. Where a calender is so installed that persons cannot normally reach through, over, under, or around to come in contact with the roll bite or be caught between a roll and an adjacent object, then, provided such elements are made a fixed part of a calender, safety control devices listed in paragraph (c) of this section shall not apply.		

Present Standard	Latest ANSI Standard	Comments
1910.216		
(e) Trip and emergency switches. All trip and emergency switches shall not be of the automatically resetting type, but shall require manual resetting.		
(f) Stopping limits.		
(1) Determination of distance of travel. All measurements on mills and calenders shall be taken with the rolls running empty at maximum operating speed. Stopping distances shall be expressed in inches of surface travel of the roll from the instant the emergency stopping device is actuated.		(f)(1) It has been suggested that the last sentence of paragraph (f)(1) should read "Stopping distance shall be expressed in feet of . . . ."
(2) Stopping limits of mills. All mills irrespective of the size of the rolls or their arrangement (individually or group-driven) shall be stopped within a distance, as measured in inches of surface travel, not greater than 1-1/2 percent of the peripheral no-load surface speeds of the respective rolls as determined in feet per minute.		(f)(2) It has been suggested that paragraph (f)(2) should read ". . . . shall be stopped within a distance, as measured in feet of surface travel . . ." in order to conform with Fig. A1 of the appendix of ANSI B28.1-1967.
(3) Stopping limits for calenders.		
(i) All calenders, irrespective of size of the rolls or their configuration, shall be stopped within a distance, as measured in inches of surface travel, not greater than 1-3/4 percent of the peripheral no-load surface speeds of the respective calender rolls as determined in feet per minute.		(f)(3)(i) It has been suggested that stopping distance be measured in feet of surface travel rather than inches to conform with Fig. A2 of the appendix of ANSI B28.1-1967.

Present Standard	Latest ANSI Standard	Comments
1910.216 (ii) Where speeds above 250 feet per minute as measured on the surface of the drive roll are used, stopping distances of more than 1-3/4 percent are permissible. Such stopping distances shall be subject to engineering determination. (g) Alarm. Where an exposure is created by the operation, and the operators are not within sight or hearing of other employees, a suitable alarm device should be provided so that assistance will be available in case of accidents.		(f)(3)(ii) Comments are solicited on whether an upper limit for stopping distances is needed for employee safety. (g) Information and comments are requested on types of alarms that could be used, such as visual or audible alarms.

Present Standard	Latest ANSI Standard	Comments
1910.217 MECHANICAL POWER PRESSES (a) General requirements. (1) New installations. The requirements of this section shall apply to all mechanical power presses installed on or after August 31, 1971, except that the requirements of paragraphs (b)(13), (b)(14), and (c)(5) of this section shall be complied with by November 1, 1975. (2) Former installations. The requirements of this section shall apply to all mechanical power presses installed prior to August 31, 1971, except that the requirements of paragraphs (b) and (c)(5) of this section shall be complied with by November 1, 1975. [39 F.R. 41841, December 3, 1974.] (3) All installations. The requirements of this section pertaining to the care and use of mechanical power presses shall apply to all mechanical power press operations as of February 15, 1972.	B11.1-1971 This col. 2 is partially blank as ANSI has not approved a revision to B11.1-1971 which OSHA adopted May 29, 1971. Col. 1 substantially conforms to B11.1-1971, except for portions amended on Dec. 3, 1974. Amendments are identified by a heavy line adjacent to new text.	There is no officially approved ANSI B11.1 revision at this time. OSHA has reviewed the ANSI B11.1 Standards Committee draft revision dated Jan. 21, 1974 and some entries in Col. 3 are based on changes in the ANSI draft. These entries are identified as tentative B11.1 revisions.

Present Standard	Latest ANSI Standard	Comments
1910.217		
(4) Reconstruction and modification. It shall be the responsibility of any person reconstructing, or modifying a mechanical power press to do so in accordance with paragraph (b) of this section.		(4) Comment is invited on the need to clarify this requirement which is not applicable to other than employers subject to the Act.
(5) Excluded machines. Press brakes, hydraulic and pneumatic power presses, bulldozers, hot bending and hot metal presses, forging presses and hammers, riveting machines and similar types of fastener applicators are excluded from the requirements of this section.	B11.1-1971 Scope- The requirements of this standard apply only to those mechanically powered machines that shear, punch, form, or dies attached to slides, commonly referred to as mechanical power presses. Press brakes, hydraulic and pneumatic power presses, bulldozers, hot bending and hot metal presses, forging presses and hammers, riveting machines, and similar types of fastener applicators are excluded from the requirements of this standard.	(5) Comment and suggestions are solicited on the need to add the names of additional excluded machines. Should a scope statement be added based on B11.1-1971 scope? Expansion of the terms of this standard to other than mechanical power presses has produced considerable confusion among employers and others. Should die making operations be subject to different requirements? What are the features that distinguish a mechanical power press from other machines not covered by this section? Comments and suggestions are invited on the need to specify that press brake machines used for production with dies (used as a mechanical power press) are subject to the safeguarding rules of .217.

Present Standard	Latest ANSI Standard	Comments
1910.217		
(b) Mechanical power press guarding and construction, general.		(b) A petitioner has suggested that information on design of press components and controls for new and modified machines be covered by a reference to ANSI B11.1-1971. Comment is solicited on whether the construction features of the press component (paragraph (b)) are more properly obligations of press builders not subject to the Act. Should design and construction requirements in (b) be applicable only to new presses? Which of the requirements of (b) should employers be responsible for compliance with?
(1) Hazards to personnel associated with broken or falling machine components. Machine components shall be designed, secured, or covered to minimize hazards caused by breakage, or loosening and falling or release of mechanical energy (i.e. broken springs).		(b)(1) Comments are invited on the need to revise this paragraph to specify "machine parts", and to make reference to 1910.219 for mechanical power transmission apparatus external to the drivein machine (press component). A petitioner has recommended that specific provisions for the safety of automatic loading or unloading mechanisms be added. Comment is invited on the need to regulate such machinery and recommendations for new requirements.
(2) Brakes. Friction brakes provided for stopping or holding a slide movement shall be inherently self-engaging by requiring power or force from an external source to cause disengagement. Brake capacity shall be sufficient to stop the motion of the slide quickly and capable of holding the slide and its attachments at any point in its travel.		
[38 F.R. 16223, June 21, 1973.]		

Present Standard	Latest ANSI Standard	Comments
1910.217 (3) Machines using full revolution positive clutches. (i) Machines using full revolution clutches shall incorporate a single-stroke mechanism. (ii) If the single-stroke mechanism is dependent upon spring action, the spring(s) shall be of the compression type, operating on a rod or guided within a hole or tube, and designed to prevent interleaving of the spring coils in event of breakage.		(b)(3) Comments and suggestions are solicited for a requirement to clarify that presses designed for and operated only in continuous mode do not require a single stroke mechanism. Should all new full revolution clutch presses built after Aug. 31, 1978 be required to have single stroke capability? Why? Comments and recommendations are solicited on whether para. (3) should be modified to cover "all machines," not limited to those using full revolution clutches. The intent of this provision is to protect against hazards present when a press without a single stroke capability is used in operations requiring a single stroke. Should this provision apply to a press on continuous run when feeding is automatic and the point of operation is fully guarded? 3.4 Machines Using Full Revolution Clutches (tentative B11.1 revision) 3.4.1 Single Stroke A new power press component constructed after 8/31/77 shall incorporate a single stroke mechanism. EXCEPTION: Any power press component designed specifically for the continuous mode of stroking need not incorporate a single stroke mechanism.

Present Standard	Latest ANSI Standard	Comments
1910.217 (4) Foot pedals (treadle). (i) The pedal mechanism shall be protected to prevent unintended operation from falling or moving objects or by accidental stepping onto the pedal. (ii) A pad with a nonslip contact area shall be firmly attached to the pedal. (iii) The pedal return spring(s) shall be of the compression type, operating on a rod or guided within a hole or tube, or designed to prevent interleaving of spring coils in event of breakage. (iv) If pedal counterweights are provided, the path of the travel of the weight shall be enclosed. (5) Hand operated levers. (i) Hand-lever-operated power presses shall be equipped with a spring latch on the operating lever to prevent premature or accidental tripping. (ii) The operating levers on handtripped presses having more than one operating station shall be interlocked to prevent the tripping of the press except by the "concurrent" use of all levers.		(b)(4) It has been suggested that paragraph (4) be modified to require additional protection against unintended actuation through (1) utilization of a spring-loaded gate at the entrance of pedal cover, or (2) mandatory use of barrier guard at point of operation when foot pedal is employed? Comments are solicited on this suggested modification. Comment is invited on the need to limit foot pedal actuation to those presses fitted with an acceptable guard only and not allow foot pedal operation when a device is used to protect the operator. An acceptable guard would be a fixed barrier guard while an example of a device are pull-outs.

Present Standard	Latest ANSI Standard	Comments
1910.217		
(6) Two-hand trip.		
(i) A two-hand trip shall have the individual operator's hand controls protected against unintentional operation and have the individual operator's hand controls arranged by design and construction and/or separation to require the use of both hands to trip the press and use a control arrangement requiring concurrent operation of the individual operator's hand controls.		
(ii) Two-hand trip systems on full revolution clutch machines shall incorporate an antirepeat feature.		(b)(6) Comments are invited on the use of trips on part revolution clutch presses as the standard is silent on such application.
(iii) If two-hand trip systems are used on multiple operator presses, each operator shall have a separate set of controls.		
(7) Machines using part revolution clutches.		
(i) The clutch shall release and the brake shall be applied when the external clutch engaging means is removed, deactivated, or deenergized.		
(ii) A red color stop control shall be provided with the clutch/brake control system. Momentary operation of the stop control shall immediately deactivate the clutch and apply the brake. The stop control shall override any other control, and reactuation of the clutch shall require use of the operating (tripping) means which has been selected.		(b)(7)(ii) Comments are solicited on the need to change this requirement to insure that each operator station set of controls is provided with an emergency stop control. Should the color red be required for the stop control at each station?

Present Standard	Latest ANSI Standard	Comments
1910.217 (iii) A means of selecting Off, "Inch," Single Stroke, and Continuous (when the continuous function is furnished) shall be supplied with the clutch/brake control to select type of operation of the press. Fixing of selection shall be by means capable of supervision by the employer. (iv) The "Inch" operating means shall be designed to prevent exposure of the workers hands within the point of operation by: (a) Requiring the concurrent use of both hands to actuate the clutch, or (b) Being a single control protected against accidental actuation and so located that the worker cannot reach into the point of operation while operating the single control. (v) Two-hand controls for single stroke shall conform to the following requirements: (a) Each hand control shall be protected against unintended operation and arranged by design, construction, and/or separation so that the concurrent use of both hands is required to trip the press.		(b)(7)(iii) Comment is invited on the various means of supervision presently available other than key-lock or positive disconnect (for foot control or hand control cable). (b)(7)(iv) Comments and information are solicited on the use of inch control by operators starting a new coil on automatic feed operations. It has been suggested in a petition to OSHA that the following provision be added: "Where strip stock must be threaded manually through die, a "set-up" circuit may be used to provide a single inching means for the initial threading. Such a circuit shall be deenergized by a change of the mode selector." A petitioner has suggested the following: "Where strip stock must be threaded manually through a die, a "set-up" circuit may be used to provide a single inching means for the initial threading. Such a circuit shall be deenergized by a change of the mode selector." (b)(7)(v) Comment is desired on the need to required only two-hand controls used as a point of operation device to conform to the construction requirements. Comment is invited on the need to add a requirement for multiple operator part revolution clutch presses similar to that specified for full revolution clutch machines in (b)(6)(iii). The requirement would provide for complete sets of controls for each operator.

Present Standard	Latest ANSI Standard	Comments
1910.217 (b) The control system shall be designed to permit an adjustment which will require concurrent pressure from both hands during the die closing portion of the stroke. (c) The control system shall incorporate an antirepeat feature. (d) The control systems shall be designed to require release of all operators' hand controls before an interrupted stroke can be resumed. This requirement pertains only to those single-stroke, two-hand controls manufactured and installed on or after August 31, 1971. (vi) [Reserved] (vii) Controls for more than one operating station shall be designed to be activated and deactivated in complete sets of two operators' controls per operating station by means capable of being supervised by the employer. The clutch/brake control system shall be designed and constructed to prevent actuation of the clutch if all operating stations are bypassed.		(b)(7)(vii) Comments and information on means of supervising controls are solicited. Should two hand buttons be waived where operator is stationed at such distance from the press that he is not exposed to the hazzard of the die? Comments are solicited on a requirement for a prior action or decision by the operator each time continuous stroking is initiated regardless of whether the previous run was continuous or not.

Present Standard	Latest ANSI Standard	Comments
1910.217 (viii) Those clutch/brake control systems which contain both single and continuous functions shall be designed so that completion of continuous circuits may be supervised by the employer. The initiation of continuous run shall require a prior action or decision by the operator in addition to the selection of Continuous on the stroking selector, before actuation of the operating means will result in continuous stroking. (ix) If foot control is provided, the selection method between hand and foot control shall be separate from the stroking selector and shall be designed so that the selection may be supervised by the employer. (x) Foot operated tripping controls, if used, shall be protected so as to prevent operation from falling or moving objects, or from unintended operation by accidental stepping onto the foot control. (xi) The control of air-clutch machines shall be designed to prevent a significant increase in the normal stopping time due to a failure within the operating valve mechanism, and to inhibit further operation if such failure does occur. This requirement shall apply only to those clutch/brake air-valve controls manufactured and installed on or after August 31, 1971, but shall not apply to machines intended only for continuous, automatic feeding applications.		(b)(7)(x) Same comment as (b)(4) above.

Present Standard	Latest ANSI Standard	Comments
1910.217 (xii) The clutch/brake control shall incorporate an automatic means to prevent initiation or continued activation of the Single Stroke or Continuous functions unless the press drive motor is energized and in the forward direction. (xiii) The clutch/brake control shall automatically deactivate in event of failure of the power or pressure supply for the clutch engaging means. Reactivation of the clutch shall require restoration of normal supply and the use of the tripping mechanism(s). (xiv) The clutch/brake control shall automatically deactivate in event of failure of the counterbalance(s) air supply. Reactivation of the clutch shall require restoration of normal air supply and use of the tripping mechanism(s). (xv) Selection of bar operation shall be by means capable of being supervised by the employer. A separate pushbutton shall be employed to activate the clutch, and the clutch shall be activated only if the driver motor is deenergized.		

Present Standard	Latest ANSI Standard	Comments
1910.217 (8) Electrical. (i) A main power disconnect switch capable of being locked only in the Off position shall be provided with every power press control system. (ii) The motor start button shall be protected against accidental operation. (iii) All mechanical power press controls shall incorporate a type of drive motor starter that will disconnect the drive motor from the power source in event of control voltage or power source failure, and require operation of the motor start button to restart the motor when voltage conditions are restored to normal. (iv) All a.c. control circuits and solenoid valve coils shall be powered by not more than a nominal 240-volt d.c. supply obtained from a transformer with an isolated secondary. Higher voltages that may be necessary for operation of machine or control mechanisms shall be isolated from any control mechanism handled by the operator, but motor starters with integral Start-Stop buttons may utilize line voltage control. All d.c. control circuits shall be powered by not more than a nominal 240-volt d.c. supply isolated from any higher voltages.		(b)(8) Comments and information are solicited on the need to provide a separate main power disconnect on each individual press rather than a master power disconnect for a line of press machines. A petitioner has suggested that the word "only" in paragraph (i) be deleted. This would permit locking in the on position. Would this create a hazzard? Comment is solicited. (b)(8)(iii) Comment and information is invited on this requirement which would require presses powered by fractional horsepower motors to replace presently installed positive starting switches which do not open the circuit upon loss of power. (b)(8)(iv) The typographical errors will be corrected, namely change 240 volt d.c. to 120 volt a.c.

Present Standard	Latest ANSI Standard	Comments
1910.217 (v) All clutch/brake control electrical circuits shall be protected against the possibility of an accidental ground in the control circuit causing false operation of the press. (vi) Electrical clutch/brake control circuits shall incorporate features to minimize the possibility of an unintended stroke in the event of the failure of a control component to function properly, including relays, limit switches, and static output circuits. [39 F.R. 41841, December 3, 1974.] (9) Slide counterbalance systems. (i) Spring counterbalance systems when used shall incorporate means to retain system parts in event of breakage. (ii) Spring counterbalances when used shall have the capability to hold the slide and its attachments at midstroke, without brake applied. (iii) Air counterbalance cylinders shall incorporate means to retain the piston and rod in case of breakage or loosening. (iv) Air counterbalance cylinders shall have adequate capability to hold the slide and its attachments at any point in stroke, without brake applied.		(b)(8)(vi) Comment and information is solicited on the need to establish more definitive criteria for electrical clutch/brake control circuits. Should this requirement be limited to electrical systems if feasible on other types?

Present Standard	Latest ANSI Standard	Comments
1910.217 (v) Air counterbalance cylinders shall incorporate means to prevent failure of capability (sudden loss of pressure) in event of air supply failure. (10) Air controlling equipment. Air controlling equipment shall be protected against foreign material and water entering the pneumatic system of the press. A means of air lubrication shall be provided when needed. (11) Hydraulic equipment. The maximum anticipated working pressures in any hydraulic system on a mechanical power press shall not exceed the safe working pressure rating of any component used in that system. (12) Pressure vessels. All pressure vessels used in conjunction with power presses shall conform to the American Society of Mechanical Engineers Code for Pressure Vessels, 1968 Edition. (13) Control reliability. When required by paragraph (c)(5) of this section, the control system shall be constructed so that a failure within the system does not prevent the normal stopping action from being applied to the press when required, but does prevent initiation of a successive stroke until the failure is corrected. The failure shall be detectable by a simple test, or indicated by the control system. This requirement does not apply to those elements of the control system which have no effect on the protection against point of operation injuries.		(b)(12) Comment is solicited on updating the requirement to the latest ASME code for new vessels. (b)(13) Comments and information are solicited on the need for more definitive criteria to complement this performance standard. How are the terms of the standard being interpreted and met when modifying presses as required by paragraph (c)(5). What simple tests are being conducted? Comments and recommendations for tests which are possible on all machines are solicited.

Present Standard	Latest ANSI Standard	Comments
1910.217 (14) Brake system monitoring. When required by paragraph (c)(5) of this section, the brake monitor shall meet the following requirements: (i) Be so constructed as to automatically prevent the activation of a successive stroke if the stopping time or braking distance deteriorates to a point where the safety distance being utilized does not meet the requirements set forth in paragraph (c)(3)(iii)(e) or (c)(3)(vii)(c) of this section. The brake monitor used with the Type B gate or movable barrier device shall be installed in a manner to detect slide top-stop overrun beyond the normal limit reasonably established by the employer. (ii) Be installed on a press such that it indicates when the performance of the braking system has deteriorated to the extent described in paragraph (b)(14)(i) of this section; and [40 F.R. 3982, January 27, 1975.]		(b)(14) Comments and information are invited on the application of brake monitors. What if any problems have been encountered in meeting the performance standard? Has the addition of brake monitoring added substantially to brake performance, reliability of safeguard, and operator safety? Should the requirement be modified to require brake performance to be monitored on each application of the brake rather than each stroke. The current rule prohibits operating presses "on the hop." (b)(14)(i) Comment is invited on the need to add the requirement that the brake monitor used with Type B gate also prevent activation of a successive stroke as is required when used with the other means of safeguarding such as presence sensing or two-hand controls.

Present Standard	Latest ANSI Standard	Comments
1910.217 (iii) Be constructed and installed in a manner to monitor brake system performance on each stroke. [39 F.R. 41841, December 3, 1974.] (c) Safeguarding the point of operation. (1) General requirements. (i) It shall be the responsibility of the employer to provide and insure the usage of "point of operation guards" or properly applied and adjusted point of operation devices on every operation performed on a mechanical power press. See Table O-10.		(c)(1) Comments are solicited on the need to clarify the intent of this rule to insure protection of press operators and not others such as passersby in the vicinity of the press. Should the provisions for point of operation safeguarding apply to supervisors or passersby in the vicinity of the press or be limited to protection of the operator? Comments and supporting information to allow the sliding holster to qualify as a form of safeguard or part of the safeguarding system when 2-hand trips or controls do not meet the safety distance requirements are solicited. Should a performance standard be added to permit newer forms of safeguarding to be used other than types currently included in the standard? A petitioner has recommended the following change: It shall be the responsibility of the employer to designate, provide, and insure the use of point of operation guards or properly applied and adjusted point of operation devices on every mechanical power press loaded or unloaded manually. Shall guarding by location be allowed when operator station is established at a distance from which the hazardous moving parts cannot be reached?

Present Standard	Latest ANSI Standard	Comments
1910.217		(c)(1) In the case of automatic feed with no operator would the feeding apparatus function as an adequate protective barrier for the point of operation? What are some of the newer forms of safeguarding? What criteria should be used to judge the acceptability of new forms of safeguarding?
(ii) The requirement of subdivision (i) of this subparagraph shall not apply when the point of operation opening is one-fourth inch or less. See Table O-10.		(c)(1)(ii) Comment is invited on the measurement of 1/4-inch opening. Should this dimension be gauged with the die clear or with the work piece in position as is the case in the ANSI tentative B11.2 hydraulic power press draft standard?
(2) Point of operation guards. (i) Every point of operation guard shall meet the following design, construction, application, and adjustment requirements: (a) It shall prevent entry of hands or fingers into the point of operation by reaching through, over, under or around the guard; (b) It shall conform to the maximum permissible openings of Table O-10; (c) It shall, in itself, create no pinch point between the guard and moving machine parts;		

Present Standard	Latest ANSI Standard	Comments
1910.217 (d) It shall utilize fasteners not readily removable by operator, so as to minimize the possibility of misuse or removal of essential parts; (e) It shall facilitate its inspection, and (f) It shall offer maximum visibility of the point of operation consistent with the other requirements. (ii) A die enclosure guard shall be attached to the die shoe or stripper in a fixed position. (iii) A fixed barrier guard shall be attached securely to the frame of the press or to the bolster plate. (iv) An interlocked press barrier guard shall be attached to the press frame or bolster and shall be interlocked with the press clutch control so that the clutch cannot be activated unless the guard itself, or the hinged or movable sections of the guard are in position to conform to the requirements of Table O-10.		(c)(2)(iv) Comments and information are invited on the need to allow the guard to be attached to the die shoe also. Should the difference between the guard and an interlocked barrier gate device be clarified to prevent confusion? Comment is invited on the desirability of establishing a criteria for interlocks which are used as part of several safeguard systems. Suggestions for suitable criteria are requested.

Present Standard	Latest ANSI Standard	Comments
1910.217 (v) The hinged or movable sections of an interlocked press barrier guard shall not be used for manual feeding. The guard shall prevent opening of the interlocked section and reaching into the point of operation prior to die closure or prior to the cessation of slide motion. See paragraph (c)(3)(ii) of this section regarding manual feeding through interlocked press barrier devices. [39 F.R. 41841, December 3, 1974.]		(c)(2)(v) 5.2.3 Interlocked Barrier Guard (Tentative B11.1 revision) An interlocked barrier guard, when used, shall be attached to the press component frame, bolster plate or die shoe and shall be interlocked with the press clutch control so that the clutch cannot be activated unless the guard itself, or the hinged or movable sections of the guard, are in position to conform to the requirements of Fig. 1 and Table 1. The hinged or movable sections of this guard shall not be used for feeding. This guard shall be applied as to prevent opening of the interlocked section and reaching into the point of operation prior to die closure and/or slide motion stopping. E5.2.3 Interlocked Barrier Guard (Tentative B11.1 revision explanation) The interlocked press barrier guard is a form of press barrier guard containing a hinged or movable section designed for die changing (when the die size is small enough to so permit) or for removing a jammed part or material or scrap. Interlocking must be performed to defeat attempts to run the press with the hinged or movable sections open or in a non-protecting position.

Present Standard	Latest ANSI Standard	Comments
1910.217 (vi) The adjustable barrier guard shall be securely attached to the press bed, bolster plate, or die shoe, and shall be adjusted and operated in conformity with Table O-10 and the requirements of this subparagraph. Adjustments shall be made only by authorized personnel whose qualifications include a knowledge of the provisions of Table O-10 and this subparagraph. (vii) A point of operation enclosure which does not meet the requirements of this subparagraph and Table O-10 shall be used only in conjunction with point of operation devices. (3) Point of operation devices. (i) Point of operation devices shall protect the operator by: (a) Preventing and/or stopping normal stroking of the press if the operator's hands are inadvertently placed in the point of operation; or (b) Preventing the operator from inadvertently reaching into the point of operation, or withdrawing his hands if		The door or movable section, with possibility of unauthorized bypassing of the interlock capability, represents a definite compromise with this guard.

Present Standard	Latest ANSI Standard	Comments
1910.217 they are inadvertently located in the point of operation, as the dies close; or [39 F.R. 41841, December 3, 1974.] (c) Preventing the operator from inadvertently reaching into the point of operation at all times; or (d) [Reserved] (e) Requiring application of both of the operator's hands to machine operating controls and locating such controls at such a safety distance from the point of operation that the slide completes the downward travel or stops before the operator can reach into the point of operation with his hands; or (f) Enclosing the point of operation before a press stroke can be initiated and maintaining this closed condition until the motion of the slide had ceased; or (g) Enclosing the point of operation before a press stroke can be initiated, so as to prevent an operator from reaching into the point of operation prior to die closure or prior to cessation of slide motion during the downward stroke.		

Present Standard	Latest ANSI Standard	Comments
1910.217 (ii) A gate or movable barrier device shall protect the operator as follows: (a) The Type A gate or movable barrier device shall protect the operator in the manner specified in paragraph (c)(3)(i)(f) of this section, and (b) A Type B gate or movable barrier device shall protect the operator in the manner specified in paragraph (c)(3)(i)(g) of this section. (iii) A presence sensing point of operation device shall protect the operator as provided in paragraph (c)(3)(i)(a) of this section, and shall be interlocked into the control circuit to prevent or stop slide motion if the operator's hand or other part of his body is within the sensing field of the device during the downstroke of the press slide. (a) The device may not be used on machines using full revolution clutches.		(c)(3)(iii)(a) Comments and other evidence relating to this prohibition are solicited.

Present Standard	Latest ANSI Standard	Comments
1910.217		
(b) The device may not be used as a tripping means to initiate slide motion.		(c)(3)(iii)(b) Comments and information are solicited concerning this prohibition. It should be noted that on September 2, 1976, OSHA granted a demonstration variance to Interlake Stamping Corporation, Willoughby, Ohio. The variance permits Interlake to operate five specially equipped Bliss presses for a period of one year by using presence sensing devices to actuate the press. The system installed by Interlake at the time the variance was first sought includes not only the light curtain but a sophisticated self-checking circuitry package that monitors all functions constantly and shuts the press down in the event of a malfunction. During the one-year trial period, Interlake will operate five sensing device equipped presses and five control presses with conventional actuation on similar work. Detailed records will be kept and the findings made available to OSHA. If the experiment is successful OSHA will consider modifying the existing standards to permit press actuation by sensing devices. In the meantime, of course, the variance applies only to Interlake.
(c) The device shall be constructed so that a failure within the system does not prevent the normal stopping action from being applied to the press when required, but does prevent the initiation of a successive stroke until the failure is corrected. The failure shall be indicated by the system.		

Present Standard	Latest ANSI Standard	Comments
1910.217 (d) Muting (bypassing of the protective function) of such device, during the upstroke of the press slide, is permitted for the purpose of parts ejection, circuit checking, and feeding. (e) The safety distance (Ds) from the sensing field to the point of operation shall be greater than the distance determined by the following formula: Ds = 63 inches/second x Ts where: Ds = minimum safety distance (inches); 63 inches/second =hand speed constant; and Ts = stopping time of the press measured at approximately 90° position of crankshaft rotation (seconds). (f) Guards shall be used to protect all areas of entry to the point of operation not protected by the presence sensing device.		(c)(3)(iii)(e) Comments, data, statistics or studies concerning operator hand speed are solicited to reaffirm the current constant or to indicate that a change is appropriate. Comment and information on the use of the formula for determining safety distance are solicited. What other factors should be considered in locating control buttons or presence sensing devices to realize the calculated safety distance? Comment is solicited on the necessity to specify the point in the press tooling from which the safety distance is measured. Information on different methods used by employers or others to determine safety. Comments are invited on the need to change the word "guards" to safeguards to allow use of supplemental presence sensing devices to meet this rule.

Present Standard	Latest ANSI Standard	Comments
1910.217		
(iv) The pull-out device shall protect the operator as specified in paragraph (c)(3)(i)(b) of this section and shall include attachments for each of the operator's hands.		
(a) Attachments shall be connected to and operated only by the press slide or upper die.		(c)(3)(iv)(a) Two variances have been granted which permit pull-outs to be operated by means other than direct connection to the slide. Comments and suggestions are solicited on the advisability of allowing pull-outs to be actuated by other parts of the press or separate means.
(b) Attachment shall be adjusted to prevent the operator from reaching into the point of operation or to withdraw the operator's hands from the point of operation before the dies close.		
(c) A separate pull-out device shall be provided for each operator if more than one operator is used on a press.		
(d) Each pull-out device in use shall be visually inspected and checked for proper adjustment at the start of each operator shift, following a new die set-up, and when operators are changed. Necessary maintenance or repair or both shall be performed and completed before the press is operated. Records of inspections and maintenance shall be kept in accordance with paragraph (e) of this section.		(d) Comment is invited on a suitable record retention requirement.

Present Standard	Latest ANSI Standard	Comments
1910.217 (v) The sweep device, shall protect the operator as specified in paragraph (c)(3)(i)(b) of this section, by removing his hands safely to a safe position if they are inadvertently located in the point of operation, as the dies close or prior to tripping the clutch. Devices operating in this manner shall have a barrier, attached to the sweep arm in such a manner as to prevent the operator from reaching into the point of operation, past the trailing edge of the sweep arm on the downward stroke of the press. This device may not be used for point of operation safeguarding after December 31, 1976. (a) The sweep device must be activated by the slide or by motion of a foot pedal triprod. (b) The sweep device must be designed, installed and operated so as to prevent the operator from reaching into the point of operation before the dies close. (c) The sweep device must be installed so that it will not itself create an impact or shear hazard between the sweep arm and the press tie rods, dies, or any other part of the press or barrier.		(v) Comment is solicited on the use of a sweep device as a backup safeguard when another acceptable device is in use after December 31, 1976.

Present Standard	Latest ANSI Standard	Comments
1910.217 (d) Partial enclosure conforming with this paragraph (c)(3)(v), as to the area of entry which they protect, must be provided on both sides of the point of operation to prevent the operator from reaching around or behind the sweep device and into the point of operation after the dies start to close. Partial enclosures shall not themselves create a pinch point or shear hazard. [39 F.R. 41841, December 3, 1974.] (vi) A holdout or a restraint device shall protect the operator as specified in subdivision (i)(c) of this subparagraph and shall include attachments for each of the operator's hands. Such attachments shall be securely anchored and adjusted in such a way that the operator is restrained from reaching into the point of operation. A separate set of restraints shall be provided for each operator if more than one operator is required on a press. (vii) The two hand control device shall protect the operator as specified in paragraph (c)(3)(i)(e) of this section.		

Present Standard	Latest ANSI Standard	Comments
1910.217 (a) When used in press operations requiring more than one operator, separate two hand controls shall be provided for each operator, and shall be designed to require concurrent application of all operators' controls to activate the slide. The removal of a hand from any control button shall cause the slide to stop. (b) Each two hand control shall meet the construction requirements of paragraph (b)(7)(v) of this section. (c) The safety distance (Ds) between each two hand control device and the point of operation shall be greater than the distance determined by the following formula: Ds = 63 inches/second x Ts; where: Ds = minimum safety distance (inches); 63 inches/second = hand speed constant; and Ts = stopping time of the press measured at approximately 90° position of crankshaft rotation (seconds).		(c)(3)(vii)(c) Comments and information are solicited on the calculation of brake stopping time when measured at approximately 90° of crank shaft rotation. Is this test difficult to reproduce? What other position of slide travel would be more accurate for obtaining stopping time?

Present Standard	Latest ANSI Standard	Comments
1910.217		
(d) Two hand control shall be fixed in position so that only a supervisor or safety engineer is capable of relocating the controls.		(c)(3)(vii)(d) Comment and information is solicited on the various means available for fixing two-hand controls.
(viii) The two hand trip device shall protect the operator as specified in paragraph (c)(3)(i)(e) of this section.		Does paragraph (viii) require clarification by including the actual language of (c)(3)(i)(e) rather than a simple reference to that section? Is it sufficiently clear that two-hand trip devices once pressed do not have to be held during the downstroke, and the slide will stop only after it has completed a full cycle. The device may be used on all presses. (c)(3)(viii) Comments and information are invited on the development of a different safety distance formula for use when two-hand trips are used as a safeguard on part revolution clutch presses. The critical time period is deemed to be that for the closing part of the stroke or 1/2 revolution of crankshaft which differs with tine required in full revolution clutch press formula.
(a) When used in press operations requiring more than one operator, separate two hand trips shall be provided for each operator, and shall be designed to require concurrent application of all operators' controls to activate the slide.		
[40 F.R. 3982, January 27, 1975.]		

Present Standard	Latest ANSI Standard	Comments
1910.217 (b) Each two hand trip shall meet the construction requirements of paragraph (b)(6) of this section. (c) The safety distance (Dm) between the two hand trip and the point of operation shall be greater than the distance determined by the following formula: Dm = 63 inches/second x Tm; where: Dm = minimum safety distance (inches); 63 inches/second = hand speed constant; and Tm = the maximum time the press takes for the die closure after it has been tripped (seconds). For full revolution clutch presses with only one engaging point Tm is equal to the time necessary for one and one-half revolutions of the crankshaft. For full revolution clutch presses with more than one engaging point, Tm shall be calculated as follows: $Tm = \left\{ \frac{1}{2} + \frac{1}{\text{Number of engaging points per revolution}} \right\} \times$ time necessary to complete one revolution of the crankshaft (seconds)		(c)(3)(vii)(c) The printing of the formula seemingly places 1/2 below the line for 1 no. of engaging points per revolution. This will be corrected to agree with the text of paragraph (c).

Present Standard	Latest ANSI Standard	Comments
1910.217		
(d) Two hand trips shall be fixed in position so that only a supervisor or safety engineer is capable of relocating the controls.		(c)(3)(vii)(d) Comment and information is invited on the means presently used to meet this performance requirement for fixing the position of portable control stations.
(ix) [Revoked]		
[39 F.R. 41841, December 3, 1974]		
(4) Hand feeding tools. Hand feeding tools are intended for placing and removing materials in and from the press. Hand feeding tools are not a point of operation guard or protection device and shall not be used in lieu of the "guards" or devices required in this section.		(c)(4) Comment and other evidence of the successful use of hand feeding tools to achieve "hands out of dies" is solicited. Should use of hand tools for feeding continue to qualify as hands out of dies" for the purpose of waiving para. (c)(5) requirements?
(5) Additional requirements for safeguarding. Where the operator feeds or removes parts by placing one or both hands in the point of operation, and a two hand control, presence sensing device of Type B gate or movable barrier (on a part revolution clutch) is used for safeguarding.		(c)(5) Comments and suggestions are solicited on experience by press users who meet this new OSHA requirement. Is the requirement clear in its limited application with regard to use of Type B gates? Hands in dies feeding only? The typographical errors in the sentence will be corrected to read ". . . sensing device or type B gate . . . : Comments are solicited on the acceptability of alternative (redundant) safe guarding as advocated in the draft revision of ANSI B11.1 standard in lieu of OSHA (c)(5) "Additional requirements for safeguarding."

Present Standard	Latest ANSI Standard	Comments
1910.217 (1) the employer shall use a control system and a brake monitor which comply with paragraphs (b)(13) and (14) of this section. This requirement shall be complied with by November 1, 1975;		A petitioner has suggested that (c)(5) be limited to presence sensing devices. Comments on this limitation are invited. (c)(5)(1) Comments and suggestions are solicited on the need to rewrite to clarify (c)(5)(1) the fact that (b)(13) modifies control system only and is not intended to apply to (b)(14) the brake monitor. Comment is solicited on whether additional safeguarding requirements should be placed on full revolution clutch presses too. The use of redundant safeguards appears to offer protection to operators from repeat or unintended strokes. Data and information on repeat strokes resulting from press component malfunction. Are repeat strokes due to press component malfunction a frequent occurrence? Are malfunctions resulting in repeats investigated and confirmed? What types of press malfunction occur? The tentative ANSI B11.1 revised draft prescribes redundant safeguarding for operators manually feeding with hands in dies. Comment is invited on the acceptability of such safeguarding in lieu of present Section (c)(5) requirements.

Present Standard	Latest ANSI Standard	Comments
1910.217 (ii) the exception in paragraph (b)(7)(v)(d) of this section for two hand controls manufactured and installed before August 31, 1971 is not applicable under this paragraph (c)(5); (iii) the control of air clutch machines shall be designed to prevent a significant increase in the normal stopping time due to a failure within the operating valve mechanism, and to inhibit further operation if such failure does occur, where a part revolution clutch is employed. The exception in paragraph (b)(7)(xi) of this section for controls manufactured and installed before August 31, 1971, is not applicable under this paragraph (c)(5).		

Present Standard	Latest ANSI Standard	Comments
1910.217		A petition to OSHA has suggested the following provisions be inserted. Please comment. (c)(6) Where the operator is required to feed or remove parts by placing one or both hands in the point of operation, devices shall prevent the operator from reaching into the point of operation until the slide has stopped. (c)(7) If a foot trip or foot control is being used and an enclosure guard or restraints meeting the requirements of subparagraph (c)(2) or (c)(3)(i)(g) or (c)(3)(i)(c) is not used, the employer shall provide a second safeguarding device which shall insure that the operator's hands are out of the point of operation when slide motion is initiated.

Present Standard	Latest ANSI Standard	Comments
1910.217		
(d) Design, construction, setting and feeding of dies.		(d) ANSI B11.1 revised would authorize hands in dies when the employer has found it infeasible to follow a hands out of dies feeding method. Should OSHA require employer to investigate the possibility of hands out of dies feeding in every case to prove it is not feasible? What are the operator safety benefits of hands out of dies or use of redundant safeguarding for hands in dies? The reports of injuries to press operators have disclosed that serious accidents are occuring during both hands in or hands out operations. The hands out of dies reports also show an increased number of injuries during set up and try out.
(1) General requirements. Effective February 1, 1975, the employer shall:		
(i) use dies and operating methods designed to control or eliminate hazards to operating personnel, and		
(ii) furnish and enforce the use of hand tools for freeing and removing stuck work or scrap pieces from the die, so that no employee need reach into the point of operation for such purposes.		(d)(1)(ii) A peritioner suggests adding ". .hand tools or other expendable devices for freeing . . ." Comment is invited on the suggested addition.
(2) [Reserved]		
(3) Scrap handling. The employer shall provide means for handling scrap from roll feed or random length stock operations. Scrap cutters used in conjunction with scrap handling systems shall be safeguarded in accordance with paragraph (b) of this section and with §1910.219.		(3) The typographical error which resulted in para. (b) instead of (c) will be corrected.

Present Standard	Latest ANSI Standard	Comments
1910.217		
(4) Guide post hazard. The hazard created by a guide post (when it is located in the immediate vicinity of the operator) when separated from its bushing by more than one-fourth inch shall be considered as a point of operation hazard and be protected in accordance with paragraph (c) of this section.		
(5) Unitized tooling. If unitized tooling is used, the opening between the top of the punch holder and the face of the slide, or striking pad, shall be safeguarded in accordance with the requirements of paragraph (b) of this section.		(d)(5) Same comment as (3) above.
(6) Tonnage, stroke, and weight designation. All dies shall be:		(d)(6) Should the word "stamped" be expanded to include "affixed, marked, or labelled so as to be visible?"
(i) Stamped with the tonnage and stroke requirements, or have these characteristics recorded if these records are readily available to the die setter;		6.5 Indentification on Dies (Tentative B11.1 revision)
(ii) Stamped to indicate upper die weight when necessary for air counterbalance pressure adjustment; and		6.5.1 Old Dies
(iii) Stamped to indicate complete die weight when handling equipment may become overloaded.		All dies constructed or reconstructed after August 31, 1971 shall be: 1) Stamped or labelled with the tonnage and stroke requirements, or have these characteristics recorded, if these records are readily available to the die setter, 2) Stamped or labelled to indicate upper die weight (or have these characteristics recorded, if these records are readily available to the die setter) when necessary for air counterbalance pressure adjustment or when inertia

Present Standard	Latest ANSI Standard	Comments
1910.217		
		loading considerations so require, and 3) Stamped or labelled to indicate complete die weight when handling equipment may be overloaded. Exception: Where dies have their characteristics recorded within a work scheduling facility, and are scheduled into definite press components having their characteristics also recorded within this work scheduling facility, requirement (1) need not apply.
(7) Die fastening. Provision shall be made in both the upper and lower shoes for securely mounting the die to the bolster and slide. Where clamp caps or setscrews are used in conjunction with punch stems, additional means of securing the upper shoe to the slide shall be used.		(d)(7) Comments and information are solicited on means of fastening dies. Comments and suggestions are solicited on whether an exception should be provided when guide posts are used, and the operator is not required to place hands in the point of operation for feeding.
(8) Die handling. Handling equipment attach points shall be provided on all dies requiring mechanical handling.		
(9) Diesetting. (i) The employer shall establish a diesetting procedure that will insure compliance with paragraph (b) of this section.		(d)(9)(i) The typographical error which substituted para. (b) for the correct reference para. (c) will be changed.
(ii) The employer shall provide spring loaded turnover bars, for presses designed to accept such turnover bars.		

Present Standard	Latest ANSI Standard	Comments
1910.217		
(iii) The employer shall provide die stops or other means to prevent losing control of the die while setting or removing dies in presses which are inclined.		
(iv) The employer shall provide and enforce the use of safety blocks for use whenever dies are being adjusted or repaired in the press.		(d)(9)(iv) Two variances have been requested to permit use of die safety blocks during feeding operations. One applicant/employer would use hand placed blocks and the other automatic powered slide blocks. Comments and data are invited on the feasibility of using of die blocks as operator safeguards during hands in dies feeding operations.
(v) The employer shall provide brushes, swabs, lubricating rolls, and automatic or manual pressure guns so that operators and diesetters shall not be required to reach into the point of operation or other hazard areas to lubricate material, punches or dies.		
(e) Inspection, maintenance, and modification of presses.		
(1) Inspection and maintenance records.		(e)(1) Comments are solicated on the need to set a period for retention of records by employers. Should keeping of records be optional? What systems are currently used for recordkeeping? Should inspection be waived on presses operated with hands out of dies feeding? How long should the record be kept? Should record be kept until replaced by most recent record?

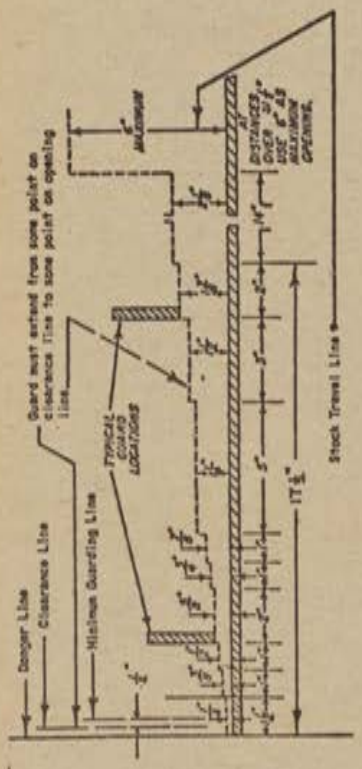
Present Standard	Latest ANSI Standard	Comments
1910.217		
(i) It shall be the responsibility of the employer to establish and follow a program of periodic and regular inspections of his power presses to insure that all their parts, auxiliary equipment, and safeguards are in a safe operating condition and adjustment. The employer shall maintain records of these inspections and the maintenance work performed.		
(ii) Each press shall be inspected and tested no less than weekly to determine the condition of the clutch/brake mechanism, antirepeat feature and single stroke mechanism. Necessary maintenance or repair or both shall be performed and completed before the press is operated. The employer shall maintain records of these inspections and the maintenance work performed. These requirements do not apply to those presses which comply with paragraph (b)(13) and (14) of this section.		A petition filed with OSHA urges the subsection (e)(1)(ii) and (e)(2) be deleted and the following provision be adopted. (ii) "At the start of each operator shift, following a new die set-up, or when operators are changed, the employer shall require the operator to visually test the designated means of safeguarding the point of operation to insure that guards and devices are in safe operating condition or adjustment. Where the operator manually loads or unloads the press, the slide stopping position, antirepeat and single stroke features of the controls shall be included. Necessary repairs or adjustments shall be made before the press is returned to production."
(2) Modification. It shall be the responsibility of any person modifying a power press to furnish instructions with the modification to establish new or changed guidelines for use and care of the power press so modified.		
(3) Training of maintenance personnel. It shall be the responsibility of the employer to insure the original and continuing competence of personnel caring for, inspecting, and maintaining power presses.		(e)(3) Comments and suggestions as to the contents of an employee training program are solicited.

Present Standard	Latest ANSI Standard	Comments
1910.217		
(f) Operation of power presses.		
(1) Employment of minors. The employer shall permit no one under 18 years of age to operate or assist in the operation of machinery covered in this section, except that this paragraph shall not be deemed to prohibit the employment of persons who are 16 of 17 years of age in an apprentice ship training program which meets the requirements contained in §§ 570.59 and 570.50(b) and (c) of this title.		
(2) Instruction to operators. The employer shall train and instruct the operator in the safe method of work before starting work on any operation covered by this section. The employer shall insure by adequate supervision that correct operating procedures are being followed.		(f)(2) A petition to OSHA urges that "instruction" specifically to include an explanation of the designated safeguard and how it is designed and adjusted for the protection of the operator. Same as above.
(3) Work area. The employer shall provide clearance between machines so that movement of one operator will not interfere with the work of another. Ample room for cleaning machines, handling material, work pieces, and scrap shall also be provided. All surrounding floors shall be kept in good condition and free from obstructions, grease, oil, and water.		
(4) Overloading. The employer shall operate his presses within the tonnage and attachment weight ratings specified by the manufacturer.		(f)(4) Comment is solicited on whether this is a requirement for peoperty protection rather than employee safety and therefore should be deleted. What are the hazards to employees that occur when presses are operated at higher that rated tonnage?

Present Standard	Latest ANSI Standard	Comments
1910.217 **This table shows the distances that guards shall be positioned from the danger line in accordance with the required openings.** TABLE O-10 *Distance of opening from point of operation hazard (inches)* — *Maximum width of opening (inches)* ½ to 1½ — ¼ 1½ to 2½ — ⅜ 2½ to 3½ — ½ 3½ to 5½ — ⅝ 5½ to 6½ — ¾ 6½ to 7½ — ⅞ 7½ to 12½ — 1¼ 12½ to 15½ — 1½ 15½ to 17½ — 1⅞ 17½ to 31½ — 2⅛ (g) Reports of injuries to employees operating mechanical power presses. The employer shall, within 30 days of the occurrence, report to either the Director of the Office of Standards Development, OSHA, U.S. Department of Labor, Washington, D.C. 20210, or the State agency administering a plan approved by the Assistant Secretary of Labor for Occupational Safety and Health, all point of operation injuries to operators or other employees. The following information shall be included in the report.		(g) OSHA has collected over 800 reports of injuries since February 2, 1975. The analysis of these reports points out certain weaknesses in the present standards for the mechanical power press. Requirements needing improvement are: barrier guards, pull-outs, handtools, scrap removal, and mode selection. Comments are invited on the need to require reporting of more information including date of injury occurrence, age of press, time of day, etc. to enable more detailed analysis of report data.

Present Standard	Latest ANSI Standard	Comments
1910.217 (i) Employer's name, address and location of the workplace (establishment). (ii) Employee's name, injury sustained, and the task being performed (operation, set-up, maintenance or other). (iii) Type of clutch used on the press (full revolution, part revolution, or direct drive). (iv) Type of safeguard(s) being used (two hand control, two hand trip, pull-outs, sweeps or other). If the safeguard is not described in this section, give a complete description.		Persons having supported data on employee casualties when operating presses are requested to submit such data for review and analysis. Suggestions are solicited for systems for analysis of work injury data.

Present Standard	Latest ANSI Standard	Comments
1910.217		Comment is solicited on the advisability of discontinuing reporting by January 1, 1978 or some other date.
(v) Cause of the accident (repeat of press, safeguard failure, removing stuck part of scrap, no safeguard provided, no safeguard in use, or other). (vi) Type of feeding (manual with hands in dies or with hands out of dies, semiautomatic, automatic, or other). (vii) Means used to actuate press stroke (foot trip, foot control, hand trip, hand control, or other). (viii) Number of operators required for the operation and the number of operators provided with controls and safeguards.		

Present Standard	Latest ANSI Standard	Comments
1910.217		
 Explanation of above diagram: This diagram shows the accepted safe openings between the bottom edge of a guard and feed table at various distances from the danger line (point of operation). The clearance line marks the distance required to prevent contact between guard and moving parts. The minimum guarding line is the distance between the infeed side of the guard and the danger line which is one-half inch from the danger line. The various openings are such that for average size hands an operator's fingers won't reach the point of operation. After installation of point of operation guards and before a job is released for operation a check should be made to verify that the guard will prevent the operator's hands from reaching the point of operation.		The printing error in the guarding chart which placed the arrow (left) for 1/2" on the clearance line instead of the danger line will be corrected. Comment is solicited on the advisability of changing ". .feed table" to ". . feed table" or workpiece in place. . See comment on (c)(1)(ii).

Present Standard	Latest ANSI Standard	Comments
1910.218 FORGING MACHINES	ANSI B24.1-1971 (R 1975) SAFETY REQUIREMENTS FOR FORGING 1. Scope This standard applies to all classes of power forging machinery both for impression-die and flat-die forging, including power-driven and gravity-drop hammers, mechanical and hydraulic forging presses, trimming presses, upsetters (or forging machines), forging rolls, ring rolling, and bolt-heading and rivet-making machines. Excluded from this standard are safety requirements for cold forging operations. 2. Definitions ANSI B24.1 lists machine definitions here for power-driven hammers, gravity hammers forging presses, trimming presses, upsetters high-energy-rate forging machines, and other equipment. 3. References ANSI B24.1 lists numerous ANSI standards and other publications here. 4. General Facility Requirement ANSI B24.1 lists here standards for: Working space Aisles Platforms and	1. Scope Information is requested on whether forging hammers, forging presses, trimming presses, upsetters, forging rolls and ring rolling, boltheading, and rivet making machines require individual coverage in this section of the standard, or whether some of these machines could be adequately covered by performance requirements for all machines. Comment is requested on the special hazards common only to forging machines.

Present Standard	Latest ANSI Standard	Comments
1910.218	B24.1 Power Transmission Equipment Lighting Cooling fans Shower baths and locker rooms Storage racks for dies and die blocks Facility inspections and maintenance General ventilation Noise	
(a) General requirements.		
(1) Use of lead. The safety requirements of this subparagraph apply to lead casts or other use of lead in the forge shop or die shop.	4.9 Use of Lead The following safety requirements apply to lead casts or other use of lead in the forge shop or die shop.	(a)(1) Use of Lead Comment is requested on what unique hazards are presented by the use of lead in forge and die shops as opposed to the use of lead generally.
(i) Thermostatic control of heating elements shall beprovided to maintain proper melting temperature and prevent overheating.	(1) Thermostatic control of heating elements shall be provided to maintain proper melting temperature and prevent overheating.	
(ii) Fixed or permanent lead pot installations shall be exhausted.	(2) Fixed or permanent lead post installations shall be exhausted.	
(iii) Portable units shall be used only in areas where good, general roomventilation is provided	(3) Portable units shall be used only in areas where good, general room ventilation is provided.	
(iv) Personal protective equipment (gloves, goggles, aprons, and other items) shall be worn.	(4) Personal protective equipment (gloves goggles, aprons, and other items) shall be be worn.	
(v) A covered container shall be provided to store dross skimmings.	(5) A covered container shall be provided to store dross skimmings.	

Present Standard	Latest ANSI Standard	Comments
1910.218	B24.1	
(vi) Equipment shall be kept clean, particularly from accumulations of yellow lead oxide.	(6) Equipment shall be kept clean, particularly from accumulations of yellow lead oxide. (7) Signs shall be posted in work areas prohibiting eating in the area. (8) Regular medical evaluation shall be made to measure lead concentration in the body.	
	5. Personal Protective Equipment ANSI B24.1 lists standards for eye, head, foot and, hearing protection and protective clothing.	
	6. Machinery and Equipment - General Requirements	
(2) Inspection and maintenance. It shall be the responsibility of the employer to maintain all forge shop equipment in a condition which will insure continued safe operation. This responsibility includes: (i) Establishing periodic and regular maintenance safety checks and keeping records of these inspections. (ii) Scheduling and recording inspection of guards and point of operation protection devices at regular intervals.	6.1 Inspection and Maintenance It shall be the responsibility of the user to maintain all forge shop equipment in a condition which will insure continued safe operation. This responsibility includes: (1) Establishing periodic and regular maintenance safety checks and keeping records of these inspections. (2) Scheduling and recording inspection of guards and point-of-operation protection devices at frequent and regular intervals.	(a)(2) Inspection and Maintenance. Comments are requested concerning any suggested training and maintenance schedules which would relate to the safe operation of forging machines.

Present Standard	Latest ANSI Standard	Comments
1910.218	B24.1	
(iii) Training personnel for the proper inspection and maintenance of forging machinery and equipment.	(3) Training personnel for the proper inspection and maintenace of forging machinery and equipment.	
(iv) All overhead parts shall be fastened or protected in such a manner that they will not fly or fall in event of failure.	(4) Fastening or protecting all overhead parts in such a manner that they shall not fly off or fall in event of failure.	
	6.2 Training Operators shall be trained for their duties and be made fully aware of safety operating methods.	
(3) Hammers and presses.	7. Hammers - General Requirements	(a)(3)(i) Positioning Hammers. OSHA requests comments on whether positioning a hammer on its foundation without anchoring it will provide adequate safety.
(i) All hammers shall be positioned or installed in such a manner that they remain on or are anchored to foundations sufficient to support them according to applicable engineering standards.	All hammers shall be positioned or installed in such a manner that they remain on or are anchored to foundations sufficient to support them according to applicable engineering standards.	
(ii) All presses shall be installed in such a manner that they remain where they are positioned or they are anchored to foundations sufficient to support them according to applicable engineering standards.	7.1, 10.1 General Requirements for Presses All presses shall be installed in such a manner that they reamin where they are anchored to foundations sufficient to support them according to applicable engineering standards.	
(iii) Means shall be provided for disconnecting the power to the machine and for locking out or rendering cycle controls inoperable.	7.1, 10.1.1 Lockouts Means shall be provided for disconnecting the power to the machine and for locking out or rendering cycling controls inoperable.	(a)(3)(iii) Lockouts. It has been brought to OSHA's attention that lockout procedures are not practiced for some situations where employers feel that tagout is a better practice or where strict lockout requirements impose unreasonable demands on an operation.

Present Standard	Latest ANSI Standard	Comments
1910.218	B24.1	OSHA requests any comments on the feasibility and safety value of the lockout paragraph. Examples are requested of alternative safety procedures which would provide adequate safety when power is disconnected.
	7.2 Stuck Forgings Stuck forgings should be removed after the ram is propped (See 7.3) and the machine made inoperable.	
(iv) The ram shall be blocked when dies are being changed or other work is being done on the hammer. Blocks or wedges shall be made of material the strength and construction of which should meet or exceed the specifications and dimensions shown in Table O-11.	7.3, 10.1.2 Blocking The ram shall be blocked when dies are being changed or other work is being done on the hammer. Blocks or wedges shall be made of material the strength and construction of which should meet or exceed the specifications and dimensions shown on Table 1.	
(v) Tongs shall be sufficient length to clear the body of the worker in case of kickback, and shall not have sharp handle ends. The worker shall be instructed in the proper body position when using tongs. Tongs should be checked periodically to see that they remain at the proper hardness level for the job. When rings or equivalent devices for locking tongs are used they should be inspected periodically to insure safe condition.	7.4, 10.1.3 Tongs Tongs should be of sufficient length to clear the body of the worker in case of kickback, and shall not have sharp handle ends. The worker should be instructed in the proper body position when using tongs. Tongs should be checked periodically to see that they remain at the proper hardness level for the job. When rings or equivalent devices for locking tongs are used, they should be inspected periodically to ensure safe condition.	

Present Standard

TABLE O-11—STRENGTH AND DIMENSIONS FOR WOOD RAM PROPS

Size of timber, inches [1]	Square inches in cross section	Minimum allowable crushing strength parallel to grain, p.s.i.[2]	Maximum static load within short column range [3]	Safety factor	Maximum recommended weight of forging hammer for timber used	Maximum allowable length of timber, inches
4 x 4	16	5,000	80,000	10	8,000	44
6 x 6	36	5,000	180,000	10	18,000	66
8 x 8	64	5,000	320,000	10	32,000	88
10 x 10	100	5,000	500,000	10	50,000	100
12 x 12	144	5,000	720,000	10	72,000	132

[1] Actual dimension.
[2] Adapted from U.S. Department of Agriculture Technical Bulletin 479. Hardwoods recommended are those whose ultimate crushing strengths in compression parallel to grain are 5,000 p.s.i. (pounds per square inch) or greater.
[3] Slenderness ratio formula for short columns is $L/d = 11$, where L = length of timber in inches and d = least dimension in inches; this ratio should not exceed 11.

1910.218

Latest ANSI Standard

B24.1

Table 1

Strength and Dimensions for Wood Ram Props

Size of Timber, In.*	Square Inches in Cross Section	Minimum Allowable Crushing Strength Parallel to Grain, Psi†	Maximum Static Load Within Short Column Range‡	Safety Factor	Maximum Recommended Weight of Forging Hammer for Timber Used	Maximum Allowable Length of Timber, In.
4 × 4	16	5000	80 000	10	8000	44
6 × 6	36	5000	180 000	10	18 000	66
8 × 8	64	5000	320 000	10	32 000	88
10 × 10	100	5000	500 000	10	50 000	100
12 × 12	144	5000	720 000	10	72 000	132

* Actual dimension.
† Adapted from U. S. Department of Agriculture Technical Bulletin 479. Hardwoods recommended are those whose ultimate crushing strengths in compression parallel to grain are 5000 psi (pounds per square inch) or greater.
‡ Slenderness ratio formula for short columns is $L/d = 11$, where L = length of timber in inches and d = least dimension in inches; this ratio should not exceed 11.

Comments

Present Standard	Latest ANSI Standard	Comments
1910.218	B24.1	
(vi) Oil swabs, or scale removers, or other devices to remove scale shall be provided. These devices shall be long enough to enable a man to reach the full length of the die without placing his hand or arm between the dies.	7.6, 10.1.4 Oil Swabs and Scale Removers Oil swabs, or scale removers or other devices to remove scale shall be provided. These devices shall be long enough to enable a man to reach the full length of the die without placing his hand or arm between the dies.	
(vii) Material handling equipment shall be of adequate strength, size, and dimension to handle diesetting operations safely.	7.7, 10.1.5 Die Setting Material handling equipment shall be of adequate strength, size, and dimension to handle die setting operations safely.	
(viii) A scale guard of substantial construction shall be provided at the back of every hammer, so arranged as to stop flying scale.	7.9 Scale Guards A scale guard of substantial construction shall be provided at the back of every hammer, so arranged as to stop flying scale.	
(ix) A scale guard of substantial construction shall be provided at the back of every press, so arranged as to stop flying scale.	10.1.6 Scale Guard A scale guard of substantial construction shall be provided at the back of every press, so arranged as to stop flying scale.	
(b) Hammers, general		
(1) Keys. Die keys and shims shall be made from a grade of material that will not unduly crack or splinter, and should not project more than 2 inches in front and 4 inches in back of ram or die.	7.5 Keys Die keys and shims shall be made from a grade of material that will not unduly crack or splinter, and should not project more than 2 inches in front and 4 inches in back of ram or die.	
(2) Foot operated devices. All foot operated devices (i.e., treadles, pedals, bars, valves, and switches) shall be substantially and effectively protected from unintended operation.	7.8 Foot-Operated Devices All foot-operated devices (that is, treadles, pedals, bars, valves, and switches) shall be substantially and effectively protected from unintended operation.	

Present Standard	Latest ANSI Standard	Comments
1910.218	B24.1	
(c) Presses	10.1.7 Manually-Operated Controls	
All manually operated valves and switches shall be clearly identified and readily accessible.	All manually-operated valves and switches shall be clearly identified and readily accessible.	
(d) Power-driven hammers.	8. Power-Driven Hammers--General Requirements	
(1) Safety cylinder head. Every steam or air hammer shall have a safety cylinder head to act as a cushion if the rod should break or pull out of the ram.	8.1 Safety Cylinder Head Every steam or air hammer shall have a safety cylinder head to act as a cushion if the rod should break or pull out of the ram.	
(2) Shutoff valve. Steam hammers shall be provided with a quick closing emergency valve in the admission pipeline at a convenient location. This valve shall be closed and locked in the off position while the hammer is being adjusted, repaired, or serviced, or when the dies are being changed.	8.2 Shutoff Valve Steam hammers shall be provided with a quick closing emergency valve in the admission pipe line at a convenient location. This valve shall be closed and locked in the "off" position while the hammer is being adjusted, repaired, or serviced, or when the dies are being changed.	
(3) Cylinder draining. Steam hammers shall be provided with a means of cylinder draining, such as a self-draining arrangement or a quick-acting drain cock.	8.3 Cylinder Draining Steam hammers shall be provided with a means of cylinder draining. Two acceptable means are a self-draining arrangement or a quick-acting drain cock.	
(4) Pressure pipes. Steam or air piping shall conform to the specifications of American National Standard ANSI B31.1.0-1967, Power Piping with Addenda issued before April 28, 1971.	8.4 Pressure Pipes Steam or air piping shall conform to the specifications of American National Standard B31.1.0-1967.	

Present Standard	Latest ANSI Standard	Comments
1910.218	B24.1	
(e) Gravity hammers.	9. Gravity Hammers	
(1) Air-lift hammers.	9.1 Air-Lift Hammers	
(i) Air-lift hammers shall have a safety cylinder head as required in paragraph (d)(1) of this section.	9.1.1 Safety Cylinder Air-lift hammers shall have a safety cylinder head as required in 8.1.	
(ii) Air-lift hammers shall have an air shutoff valve as required in paragraph (d)(2) of this section and should be conveniently located and distinctly marked for ease of identification.	9.1.2 Shutoff Valve Air-lift hammers shall have an air shutoff valve as required in 8.2 and should be marked for ease of identification.	
(iii) Air-lift hammers shall be provided with two drain cocks: one on main head cylinder, and one on clamp cylinder.	9.1.3 Cylinder Draining Air-lift hammers shall be provided with two drain cocks: one on main head cylinder, and one on clamp cylinder.	
(iv) Air piping shall conform to the specifications of the ANSI B31.1.0-1967, Power Piping with Addenda issued before April 28, 1971.	9.1.4 Pressure Pipes Air piping shall conform to the specification of American National Standard B31.1.0-1967.	
(2) Board drophammers.	9.2 Board Drop Hammers	
(i) A suitable enclosure shall be provided to prevent damaged or detached boards from falling. The board enclosure shall be securely fastened to the hammer.	9.2.1 Enclosure for Boards A suitable enclosure shall be provided to prevent damaged or detached boards from falling. The board enclosure shall be securely fastened to the hammer.	

Present Standard	Latest ANSI Standard	Comments
1910.218 (ii) All major assemblies and fittings which can loosen and fall shall be properly secured in place.	B24.1	

Present Standard	Latest ANSI Standard	Comments
1910.218	B24.1	
(f) Forging presses.	10.2 Forging Presses	(f) Forging Presses (Die Change and Maintenance).
(1) Mechanical forging presses. When dies are being changed or maintenance is being performed on the press, the following shall be accomplished:	10.2.1 Mechanical Forging Presses. When dies are being changed or maintenance is being performed on the press, the following shall be accomplished:	OSHA requests comments on other training and work practice requirements which would improve this paragraph.
(i) The power to the press shall be locked out.	(1) The power to the press shall be locked out.	
(ii) The flywheel shall be at rest.	(2) The flywheel shall be at rest.	
(iii) The ram shall be blocked with a material the strength of which shall meet or exceed the specification or dimensions shown in Table O-11.	(3) The ram shall be blocked with a meterial the strength of which shall meet or exceed the specifications or dimensions shown in Table 1.	
(2) Hydraulic forging presses. When dies are being changed or maintenance is being performed on the press, the following shall be accomplished:	10.2.2 Hydraulic Forging Presses. When dies are being changed or maintenance is being performed on the press, the following shall be accomplished:	
(i) The hydraulic pumps and power apparatus shall be locked out.	(1) The hydraulic pumps and power apparatus shall be locked out.	
(ii) The ram shall be blocked with a material the strength of which shall meet or exceed the specifications or dimensions shown in Table O-11.	(2) The ram shall be blocked with a material the strength of which shall meet or exceed the specifications or dimensions shown in Table 1.	
(g) Trimming presses.	10.3 Trimming Presses	
(1) Hot trimming presses. The requirements of paragraph (f)(1) of this section shall also apply to hot trimming presses.	10.3.1 Hot Trimming Presses. (See 10.2.1)	

Present Standard	Latest ANSI Standard	Comments
1910.218	B24.1	
(2) Cold trimming presses. Cold trimming presses shall be safeguarded in accordance with Section 1910.217(c).	10.3.2 Cold Trimming Presses These presses shall be safeguarded in accordance with Section 5 of American National Standard B11.1-1971.	
(h) Upsetters.	11. Upsetters—General Requirements	
(1) General requirements. All upsetters shall be installed so that they remain on their supporting foundations.	All upsetters shall be installed so that they remain on their supporting foundations.	
(2) Lockouts. Upsetters shall be provided with a means for locking out the power at its entry point to the machine and rendering its cycling controls inoperable.	11.2 Lockouts Upsetters shall be provided with a means for locking out the power at its entry point to the machine and rendering its cycling controls inoperable.	
(3) Manually operated controls. All manually operated valves and switches shall be clearly identified and readily accessible.	11.2 Manually-Operated Controls All manually-operated valves and switches shall be clearly identified and readily accessible.	
(4) Tongs. Tongs shall be of sufficient length to clear the body of the worker in case of kickback, and shall not have sharp handle ends. The worker should be instructed in the proper body position when using tongs. Tongs should be checked periodically to see that they remain at the proper hardness level for the job. When rings or equivalent devices for locking tongs are used they should be inspected periodically to ensure safe condition.	11.3 Tongs Tongs shall be of sufficient length to clear the body of the worker in case of kickback, and shall not have sharp handle ends. The worker should be instructed in the proper body position when using tongs. Tongs should be checked periodically to see that they remain at the proper hardness level for the job. When rings or equivalent devices for locking tongs are used, they should be inspected periodically to ensure safe condition.	

Present Standard	Latest ANSI Standard	Comments
1910.218 (5) Changing dies. When dies are being changed, maintenance performed, or any work done on the machine, the power to the upsetter shall be locked out, and the flywheel shall be at rest.	B24.1 11.4 Procedures When dies are being changed, maintenance performed, or any work done on the machine, the following procedure shall be accomplished: (1) The power to the upsetter shall be locked out. (2) The flywheel shall be at rest. 12. Other Forging Equipment 12.1 Forging Rolls Rolls should be started in an open position and brought gradually closer until the stock reaches the right size. 12.2 Ring Rolling 12.2.1 Rolls Rolls should be inspected regularly for condition and alignment. 12.2.2 Operation Tongs must be clear of the mill when in motion. 12.2.3 Guards Transparent, shatterproof heat shields should be provided and strategically placed for protection of personnel in rolling operations.	

Present Standard	Latest ANSI Standard	Comments
1910.218	B24.1	
(i) Other forging equipment.		
(1) Boltheading. The provisions of paragraph (h) of this section shall apply to boltheading.	12.3 Bolt-Heading The provisions of this standard pertaining to upsetters (Sections 11 to 11.4) shall apply to bolt heading.	
(2) Rivet making. The provisions of paragraph (h) of this section shall apply to rivet making.	12.4 Rivet-Making The provisions of this standard pertaining to bolt-heading and upsetting shall apply to rivet-making.	
	13. Other Forge Facility Equipment	
	13.1 Key Drivers Key drivers should be inspected regularly for end-splitting or cracks, and personnel should be instructed in the proper method of use.	
	13.2 Cranes Cranes should be operated and maintained in accordance with manufacturer's instruction (American National Standard B30.2.0-1967).	
	13.3 Powered Industrial Trucks No persons should operate an industrial truck without special training or license (American National Standard B56.1-1969).	

Present Standard	Latest ANSI Standard	Comments
1910.218	B24.1	
	13.3.1 Manipulators used in forging operations should be inspected regularly to see that they are able to handle the designated loads. Tracks or slides for manipulators should be kept free of dirt or materials that would hinder its smooth operation.	
(j) Other forge facility equipment.	13.4 Billet Shears	
(1) Billet shears. A positive-type lockout device for disconnecting the power to the shear shall be provided.	13.4.1 A positive-type lockout device for disconnecting the power to the shear shall be provided.	
	13.4.2 The maximum size and specification of material being sheared, as recommended by the manufacturer of the shear, should not be exceeded.	
	13.4.3 Effective point-of-operation guarding should be provided at both the feeding end and discharge end of the shear.	
(2) Saws. Every saw shall be provided with a guard of not less than one-eighth inch sheet metal positioned to stop flying sparks. Suitable means should be provided to trap sparks below the saw. A tank of water placed below the saw is also desirable.	13.5 Saws Every saw shall be provided with a guard of not less than one-eighth inch sheet metal positioned to stop flying sparks. Suitable means should be provided to trap sparks below the saw. A tank of water placed below the saw is also desirable.	
(3) Conveyors. Conveyor power transmission equipment shall be guarded in accordance with ANSI B20.1-1957, Safety Code for Conveyors, Cableways, and Related Equipment.	13.6 Conveyors Conveyor power transmission equipment shall be guarded in accordance with American National Standard B20.1-1957.	

Present Standard	Latest ANSI Standard	Comments
1910.218	B24.1 13.7 Heating Equipment 13.7.1 Control of Heat Exposure Control of heat exposure should be provided by such methods as: (1) Reflective shielding (2) Controlled openings (3) Evaporative cooling (4) Water jackets (5) Chain curtains 13.7.2 Combustion Safeguards Protection against dangerous accumulation of unburned mixtures of fuel and air within the furnace, caused by accidential burner-flame extinguishment or lack of automatic preventilation, should be provided. 13.7.3 Oil-Fired A lighting torch shall be provided for lighting oil-fired furnaces. 13.7.4 Gas-Fired A lighting torch shall be provided for lighting gas-fired furnaces.	

Present Standard	Latest ANSI Standard	Comments
1910.218	B24.1	
	13.8 Heat Treating	
	Manufacturer's recommendations should be followed in the operation and maintenance of heat treat furnaces.	
	14. Cleaning and Finishing Equipment	
(4) Shot blast. The cleaning chamber shall have doors or guards to protect operators.	14.1 Shot Blast	
	The cleaning chamber shall have doors or guards to protect operators. The exhaust system to remove spent shot should be kept free of obstruction and leaks.	
	14.2 Chemical	
	Fume hoods and other ventilating apparatus should be used with chemical baths for cleaning and pickling. (See American National Standard Allowable Concentrations of Toxic Dust and Gases, Z37 Series.)	
	14.3 Tumbling	
	Tumbling barrels should be completely guarded with protective sound absorbing material. These guards should be interlocked with the power circuit so that the barrel will not operate unless the guard is in place.	

Present Standard	Latest ANSI Standard	Comments
1910.218 (5) Grinding. Personal protective equipment shall be used in grinding operations, and equipment shall be used and maintained in accordance with ANSI B7.1-1970, Safety Code for the Use, Care, and Protection of Abrasive Wheels, and with §1910.215.	B24.1 14.4 Grinding Personal protective equipment shall be used in grinding operations, and equipment shall be used and maintained in accordance with American National Standard B7.1-1970.	

Present Standard	Latest ANSI Standard	Comments
1910.219 MECHANICAL POWER TRANSMISSION APPARATUS	American National Standard Safety Standard for Mechanical Power Transmission Apparatus B15.1-1972 The latest ANSI standard (B15.1-1972) is a performance standard with an appendix which is specification oriented. Selected provisions of the ANSI standard and its appendix are set forth next to the appropriate provision of §1910.219. The entire B15.1-1972 standard with appendix can be obtained through ANSI. 1. Scope 1.1 This standard provides for the protection of people from the motion hazards associated with equipment used in the mechanical transmission of power in industrial and commerical establishments such as factories, construction sites, and business establishments whose premises have limited accessibility to the general public. Installations to be guarded include sources of mechanical power, the associated and intermediate equipment and the driven machines up to, but excluding, the point of operation. This pertains to revolving oscillating, reciprocating, or other moving parts such as, but not limited to, actuators, backstops, belts, brakes, cams, chains, clutches, collars, compressors.	The appropriate definitions for this section are found in §1910.211(f). Comments are requested as to which machine elements constitute power transmission apparatus covered by §1910.219 and excluded from §1910.212. Belts and sheaves, chains and sprockets, and couplings and shafts are the most common types of power transmission apparatus. What other machine elements or combinations should be covered in this power transmission apparatus standard? Under what particular circumstances should machine elements, such as cams, clutches, collars, lead screws, etc. be covered in this standard?

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
	counterweights, couplings, cranks, eccentrics, engines, flywheels, gears, lead screws, motors, power cylinders, pumps, pulleys, shafting, sheaves, spindles, sprockets, turbines, and winches. A1.1 Scope. Mechanical Power Transmission Components are universal on all mechanical equipment. Exposure to turning or moving parts is obviously hazardous. Body or clothing contact with such equipment is certain to result in an accident or injury, or both. No employee, regardless of training, intelligence and intent can be 100 percent alert 100 percent of the time. An employee forced to work close to unprotected moving transmission parts of machinery is likely to be apprehensive, and almost certain to come in contact with such machine parts sooner or later. This standard, when applied conscientiously, is intended to provide definite protection from inadvertent contact.	
(a) General requirements. (1) This section covers all types and shapes of power-transmission belts, except the following when operating at two hundred and fifty (250) feet per minute or less:	A2. Motion Hazards A2.1 Mechanical Motion. All mechanical motion has some potential of being hazardous. Rotating members, reciprocating parts, linearly moving belts and chains, meshing gears, oscillating mechanisms, parts-in-shear and uncontrolled movement of failing parts are examples of the types of motion requiring protection. They are not peculiar to any one machine or industry, but are basic to mechanical devices.	(a)(1) Should systems such as timing belts and sheaves and chains and sprockets transmitting low horsepower or those containing enough slack or stretch to prevent injury be exempt from guarding requirements? If so, what parameters are recommended? Provide supporting data and information. Is 250 FPM a reasonable value to use as a break-off point?

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972 A2.2 Types of Mechanical Motion. A2.2.1 Rotating. Any rotating mechanism may be dangerous. Even smooth, slowly rotating shafting can grip clothing or hair, cause abrasions, or through mere contact, force a limb into a more dangerous position. Collars, cams, clutches, couplings, flywheels, exposed shaft ends, lead screws and transmission shafting are examples of common rotating mechanisms which are hazardous unless guarded. The danger increases when fasteners, projecting keys, lubricating devices, nicks, burrs, sharps edges, or screw threads are exposed. Shafts and hubs with projecting keys and set screws are typical. Other examples include couplings with bolt-heads projecting, non-circular hubs on gears, sprockets and pulleys, or keyseat set-screws, pulleys with spokes or arms, and shifting mechanisms for some clutches. A2.2.2 Reciprocating or Oscillating. Reciprocating and oscillating motions are hazardous because the back-and-forth motions may cause a person to be struck or caught in a pinch or shear point between fixed and moving objects. An example of this is the rear overhang of the reciprocating head of a shaper-type machine tool.	

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972 A2.2.3 Linear or Transverse. In linear or transverse motion a hazard exists in being caught between the moving element and fixed guideways or a shear point between the moving element and a fixed structure. A2.2.4 Nip Points or Nip Areas. Nip points occur where belts, rope or cables pass over pulleys, where gears, chains, and sprockets mesh, and between in-running rolls. Such motion may nip, pinch, squeeze or entrap objects coming into contact.	
(i) Flat belts one (1) inch or less in width, (ii) Flat belts two (2) inches or less in width which are free from metal lacings or fasteners, (iii) Round belts one-half (1/2) inch or less in diameter; and (iv) Single strand V-belts, the width of which is thirteen thirty-second (13/32) inch or less. (2) Vetical and inclined belts (paragraphs (e)(3) and (4) of this section) if not more than two and one-half (2-1/2) inches wide and running at a speed of less than one thousand (1,000) feet per minute, and if free from metal lacings or fastenings may be guarded with a nip-point belt and pulley guard.		(a)(1)(1),(ii),(iii) FIM 76-26 exempted from guard requirements flat and round belts without metal fasteners or lacing located above the table top when used on light and medium duty sewing machines in apparel and light weight material manufacturing. Data and information is solicited concerning other uses of belts which do not present a hazard to employees.

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(3) For the Textile Industry, because of the presence of excessive deposits of lint, which constitute a serious fire hazard, the sides and face sections only of nip-point belt and pulley guards are required, provided the guard shall extend at least six (6) inches beyond the rim of the pulley on the in-running and off-running sides of the belt and at least two (2) inches away from the rim and face of the pulley in all other directions.		(a)(3) Variances 349 and 350 permit the use of knitting machines containing guards with 5-1/4 inch clearance to the rim of the pulley rather than the 6 inch requirement. What range of dimensions are recommended to accommodate existing knitting machines thus providing a safe operating environment?
(4) This section covers the principal features with which power transmission safeguards shall comply.		
(b) Prime-mover guards.		
(1) Flywheels. Flywheels located so that any part is seven (7) feet or less above floor or platform shall be guarded in accordance with the requirements of this subparagraph:		(b)(1) ANSI B15.1-1972 paragraph 9.1.1 requires guards for moving parts located less than 8 feet above the working surface and for in-running nip and shear points or moving projections located less than 9 feet above the working surface. Should paragraph (b)(1) be changed to agree with this ANSI standard? Data and information supporting your position should be provided.
(i) With an enclosure of sheet, perforated, or expanded metal, or woven wire;		
(ii) With guard rails placed not less than fifteen (15) inches nor more than twenty (20) inches from rim. When flywheel extends into pit or is within 12 inches of floor, a standard toeboard shall also be provided;		

Present Standard	Latest ANSI Standard	Comments
1910.219 (iii) When the upper rim of flywheel protrudes through a working floor, it shall be entirely enclosed or surrounded by a guardrail and toeboard. (iv) For flywheels with smooth rims five (5) feet or less in diameter, where the preceding methods cannot be applied, the following may be used: A disk attached to the flywheel in such manner as to cover the spokes of the wheel on the exposed side and present a smooth surface and edge, at the same time providing means for periodic inspection. An open space, not exceeding four (4) inches in width, may be left between the outside edge of the disk and the rim of the wheel if desired, to facilitate turning the wheel over. Where a disk is used, the keys or other dangerous projection not covered by disk shall be cut off or covered. This subdivision does not apply to flywheels with solid web centers. (v) Adjustable guard to be used for starting engine or for running adjustment may be provided at the flywheel of gas or oil engines. A slot opening for jack bar will be permitted. (vi) Wherever flywheels are above working areas, guards shall be installed having sufficient strength to hold the weight of the flywheel in the event of a shaft or wheel mounting failure.	B15.1-1972	

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(2) Cranks and connecting rods. Cranks and connecting rods, when exposed to contact shall be guarded in accordance with paragraphs (m) and (n) of this section, or by a guardrail as described in paragraph (o)(5) of this section.		
(3) Tail rods or extension piston rods. Tail rods or extension piston rods shall be guarded in accordance with paragraphs (m) and (o) of this section, or by a guardrail on sides and end, with a clearance of not less than fifteen (15) nor more than twenty (20) inches when rod is fully extended.		
(4) Governor balls. Governor balls six (6) feet or less from the floor or other working level, when exposed to contact, shall be provided with an enclosure extending to the top of the governor balls when at their highest position. The material used in the construction of this enclosure shall conform to paragraphs (m) and (o) of this section.		(b)(4) The comment referring to paragraph (b)(1) also is applicable to paragraph (b)(4).
(c) Shafting.	A6. Line Shaft Equipment	
(1) Installation.	A6.1 Decrease in Use. It is probable that few new plants or operations are being set up with line shafting. Nevertheless, line shafting still is in use.	
(i) Each continuous line of shafting shall be secured in position against excessive endwide movement.		(c)(1)(i),(ii) Comment is requested on whether excessive endwise shaft movement creates a safety hazard? If so, to what

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(ii) Inclined and vertical shafts, particularly inclined idler shafts, shall be securely held in position against endwise thrust.	For the most part the requirements for guarding line shafts, pulleys, belts, etc., are provided for in the standard. Some additional recommendations apply and are included here and are adopted from the 1953 edition of this standard.	extent should this movement be limited and under what conditions or situations?
(2) Guarding horizontal shafting.		(c)(2),(3),(4) Except for the 7' height, wordage of these paragraphs is essentially identical to the BLS 1924 edition.
(i) All exposed parts of horizontal shafting seven (7) feet or less from floor or working platform, excepting runways used exclusively for oiling, or running adjustments, shall be protected by a stationary casing enclosing shafting completely or by a trough enclosing sides and top or sides and bottom of shafting as location requires.		What hazards are associated with present day state-of-the-art technology? Should there be the same height requirement for horizontal, vertical, and inclined shafts? Should that requirement be 7, 8 or 9 feet?
(ii) Shafting under bench machines shall be enclosed by a stationary casing, or by a trough at sides and top or sides and bottom, as location requires. The sides of the trough shall come within at least six (6) inches of the underside of table, or if shafting if located near floor within six (6) inches of floor. In every case the sides of trough shall extend at least two (2) inches beyond the shafting or protuberance.		Should runways used for oiling or making adjustments continue to be excepted?

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(3) Guarding vertical and inclined shafting. Vertical and inclined shafting seven (7) feet or less from floor or working platform, excepting maintenance runways, shall be enclosed with a stationary casing in accordance with requirements of paragraphs (m) and (o) of this section.		
(4) Projecting shaft ends.		
(i) Projecting shaft ends shall present a smooth edge and end and shall not project more than one-half the diameter of the shaft unless guarded by nonrotating caps or safety sleeves.		
(ii) Unused keyways shall be filled up or covered.		
(5) Power-transmission apparatus located in basements. All mechanical power transmission apparatus located in basements, towers, and rooms used exclusively for power transmission equipment shall be guarded in accordance with this section, except that the requirements for safeguarding belts, pulleys, and shafting need not be complied with when the following requirements are met:	9.1.3 Equipment may be considered to be guarded by location when in an enclosed area with a locked entrance. The area shall have either walls or a fence of a minimum height of 96 inches. Mechanical Power Transmission components shall be individually guarded in compliance with Section 8 unless the source of power to or within all prime movers is automatically shut down when the entrance is opened. Manual re-start will be required.	(c)(5) Maintenance personnel at times are required to work on operating machinery. Should they be permitted to work within "locked" power transmission rooms containing unguarded power-transmission components? Should a guard based on degree of hazard be considered for fully informed and experienced maintenance personnel? If so, to what extent should guards be used, i.e., in-running nip points, shear points, moving projections, etc?

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(i) The basement, tower, or room occupied by transmission equipment is locked against unauthorized entrance.		
(ii) The vertical clearance in passageways between the floor and power transmission beams, ceiling, or any other objects, is not less than five feet six inches (5 ft. 6 in.).		
(iii) The intensity of illumination conforms to the requirements of ANSI A11.1-1965 (R-1970).		
(iv) The footing is dry, firm, and level.		
(v) The route followed by the oiler is protected in such manner as to prevent accident.		
(d) Pulleys.		
(1) Guarding. Pulleys, any parts of which are seven (7) feet or less from the floor or working platform, shall be guarded in accordance with the standards specified in paragraphs (m) and (o) of this section. Pulleys serving as balance wheels (e.g., punch presses) on which the point of contact between belt and pulley is more than six feet six inches (6 ft. 6 in.) from the floor or platform may be guarded with a disk covering the spokes.		(d)(1) Should the horizontal distance from a hazard be considered in conjunction with the vertical height requirement to determine a safe distance for guard location? Data and information is requested indicating safe distance/height relationship with an appropriate method used to determine the parameters.

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(2) Location of Pulleys. (i) Unless the distance to the nearest fixed pulley, clutch, or hanger exceeds the width of the belt used, a guard shall be provided to prevent the belt from leaving the pulley on the side where insufficient clearance exists. (ii) Where there are overhanging pulleys on line, jack, or countershafts with no bearing between the pulley and the outer end of the shaft, a guide to prevent the belt from running off the pulley should be provided. (3) Broken pulleys. Pulleys with cracks, or pieces broken out of rims, shall not be used. (4) Pulley speeds. Pulleys intended to operate at rim speed in excess of manufacturers normal recommendations shall be specially designed and carefully balanced for the speed at which they are to operate. (5) Composition and wood pulleys. Composition or laminated wood pulley shall not be installed where they are subjected to influences detrimental to their structural composition.	A6.2 Location of Pulleys. Unless the distance to the nearest fixed pulley, clutch or hanger exceeds the width of the belt used, a guard should be provided to prevent the belt from leaving the pulley on the side where insufficient clearance exists. Where there are over-hanging pulleys on a line, jack or counter shaft, with no bearing between the pulley and the outer end of the shaft, a guard to prevent the belt from running off the pulley should be provided. Pulleys with cracks, or pieces broken out of rims, should be taken out of service. A6.3 Special Pulleys. Composition or laminated wood pulleys should never be installed where they are subject to influences detrimental to their structural composition. Pulleys used where conditions are such as to produce active corrosion should be made of corrosion resisting materials.	

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(e) Belt, rope, and chain drives.		
(1) Horizontal belts and ropes.	A6.4 Horizontal Belts and Ropes. Horizontal overhead belts, above floor or platforms, should be guarded for their entire length under the following conditions:	(e)(1)(i) This paragraph addresses horizontal belt drives containing horizontal axes. How should horizontal belts containing vertical axes be guarded? How do the 15 inch and 42 inch height requirements relate to safety? Are these height requirements applicable to belts, ropes and chains which operate under a predetermined tension with a resultant small lateral deflection? Data and information on these matters is requested.
(i) Where both runs of horizontal belts are seven (7) feet or less from the floor level, the guard shall extend to at least fifteen (15) inches above the belt or to a standard height (see Table O-12), except that where both runs of a horizontal belt are 42 inches or less from the floor, the belt shall be fully enclosed in accordance with paragraphs (m) and (o) of this section.		
(ii) In powerplants or power-development rooms, a guardrail may be used in lieu of the guard required by subdivision (i) of this subparagraph.		(e)(1)(ii) Are there particular machine elements in powerplants or power-development rooms which should be guarded by means other than a guardrail? Should guardrails other than those specified in (o)(5) of this paragraph be permitted?
(2) Overhead horizontal belts.		
(i) Overhead horizontal belts, with lower parts seven (7) feet or less from the floor or platform, shall be guarded on sides and bottom in accordance with paragraph (o)(3) of this section.		

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(ii) Horizontal overhead belts more than seven (7) feet above floor or platform shall be guarded for their entire length under the following conditions:		(e)(2)(ii) The hazard associated with overhead belts flying off and subsequently hitting an employee is addressed. Should guarding of overhead belts be required even when the belts are not over passageways and workplaces if employees can be injured? Comments are being solicited in reference to this point.
(a) If located over passageways or work places and traveling 1,800 feet or more per minute.	A6.4.1 If located over passageways or workplaces.	Are the 1800 FPM, 10 feet and 8 inch parameters appropriate or can these values be replaced with a range or tolerance limit of values? If so, please recommend parameters.
(b) If center to center distance between pulleys is ten (10) feet or more.	A6.4.2 If center to center distance between pulleys is ten (10) feet or more.	
(c) If belt is eight (8) inches or more in width.	A6.4.3 If the belt is eight (8) inches or more in width.	
(iii) Where the upper and lower runs of horizontal belts are so located that passage of persons between them would be possible, the passage shall be either:		

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(a) Completely barred by a guardrail or other barrier in accordance with paragraphs (m) and (o) of this section; or		(e)(2)(iii)(a) What other means of safeguarding can be considered as safe as a guardrail?
(b) Where passage is regarded as necessary, there shall be a platform over the lower run guarded on either side by a railing completely filled in with wire mesh or other filler, or by a solid barrier. The upper run shall be so guarded as to prevent contact therewith either by the worker or by objects carried by him.. In powerplants only the lower run of the belt need be guarded.		(e)(2)(iii)(b) Are there any situations when the upper run should be guarded in powerplants?
(iv) Overhead chain and link belt drives are governed by the same rules as overhead horizontal belts and shall be guarded in the same manner as belts.		
(v) American or Continuous System rope drives so located that the rope (particularly the splice) cannot be constantly and conveniently observed, shall be equipped with a telltale device (preferably electric-bell type) that will give warning when rope begins to fray.		(e)(2)(v) Information is requested as to the extent of current usage of American and Continuous System rope drives, and as to any appropriate revision of this paragraph.

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(3) Vertical and inclined belts (i) Vertical and inclined belts shall be enclosed by a guard conforming to standards in paragraphs (m) and (o) of this section. (ii) All guards for inclined belts shall be arranged in such a manner that a minimum clearance of seven (7) feet is maintained between belt and floor at any point outside of guard.		(e)(3) Should a slow speed and low horsepower exemption be considered? If so, what parameters should be used as the cut-off points? How does guarding vertical and inclined belts differ from guarding horizontal belts as far as safety hazards are concerned? What horizontal distance from a hazard can be considered safe? Under what conditions? Why? Should needle sewing machines be exempted from the requirements of this paragraph?
(4) Vertical belts. Vertical belts running over a lower pulley more than seven (7) feet above floor or platform shall be guarded at the bottom in the same manner as horizontal overhead belts, if conditions are as stated in subparagraphs (2)(ii)(a) and (c) of this paragraph.	A6.5 Vertical Belts. Vertical belts running over a lower pulley above floor or platform should be guarded at the bottom in the same manner as on overhead belts if conditions are such as stated above.	
(5) Cone-pulley belts. (i) The cone belt and pulley shall be equipped with a belt shifter so constructed as to adequately guard the nip point of the belt and pulley. If the frame of belt shifter does not adequately guard the nip point of the		(e)(5)(i) This paragraph requires guarding of the nip point of the belt and pulley to the top of the cone. The paragraph, as drafted, applies only to flat belts; therefore, what other types of belts should be covered?

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
belt and pulley, the nip point shall be further protected by means of a vertical guard placed in front of the pulley and extending at least to the top of the largest step of the cone. (ii) If the belt is of the endless type or laced with rawhide laces, and belt shifter is not desired, the belt will be considered guarded if the nip point of the belt and pulley is protected by a nip point guard located in front of the cone extending at least to the top of the largest step of the cone, and formed to show the contour of the cone in order to give the nip point of the belt and pulley the maximum protection. (iii) If the cone is located less than 3 feet from the floor or working platform, the cone pulley and belt shall be guarded to a height of 3 feet regardless of whether the belt is endless or laced with rawhide. (6) Belt tighteners. (i) Suspended counterbalanced tighteners and all parts thereof shall be of substantial construction and securely fastened; the bearings shall be securely capped. Means must be provided to prevent tightener from falling, in case the belt breaks.		

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(ii) Where suspended counterweights are used and not guarded by location, they shall be so encased as to prevent accident.		
(f) Gears, sprockets, and chains.		
(1) Gears. Gears shall be guarded in accordance with one of the following methods:		(f)(1),(2),(3) Should slow running and low horsepower gears and sprockets and those guarded by location be exempted? What parameters are suggested as the cutoff points?
(i) Be a complete enclosure; or		
(ii) Be a standard guard as described in paragraph (o) of this section, at least seven (7) feet high extending six (6) inches above the mesh point of the gears; or		
(iii) By a band guard covering the face of gear and having flanges extended inward beyond the root of the teeth on the exposed side or sides. Where any portion of the train of gears guarded by a band guard is less than six (6) feet from the floor a disk guard or a complete enclosure to the height of six (6) feet shall be required.		

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(2) Hand-operated gears. Subparagraph (1) of this paragraph does not apply to hand-operated gears used only to adjust machine parts and which do not continue to move after hand power is removed. However, the guarding of these gears is highly recommended.		
(3) Sprockets and chains. All sprocket wheels and chains shall be enclosed unless they are more than seven (7) feet above the floor or platform. When the drive extends over other machine or working areas, protection against falling shall be provided. This subparagraph does not apply to manually operated sprockets.		(f)(3) Variance 284 indicated that a guard was not necessary for a chain and sprocket arrangement in which the chain at 5-10 pounds of tension moved at 1.375 IPS. What limits with respect to tension, speed and horsepower should be used where there is no risk of injury to an employee?
(4) Openings for oiling. When frequent oiling must be done, openings with hinged or sliding self-closing covers shall be provided. All points not readily accessible shall have oil feed tubes if lubricant is to be added while machinery is in motion.		
(g) Guarding friction drives.		
The driving point of all friction drives when exposed to contact shall be guarded, all arm or spoke friction drives and all web friction drives with holes in the web shall be entirely enclosed, and all projecting belts on friction drives where exposed to contact shall be guarded.		

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(h) Keys, setscrews, and other projections.		
(1) All projecting keys, setscrews, and other projections in revolving parts shall be removed or made flush or guarded by metal cover. This subparagraph does not apply to keys or setscrews within gear or sprocket casings or other enclosures, nor to keys, setscrews, or oilcups in hubs of pulleys less than twenty (20) inches in diameter where they are within the plane of the rim of the pulley.		(h)(1),(2) Since paragraph (d)(1) requires guarding of pulleys; keys, setscrews, or oilcups which are within the plane of the pulley would naturally be guarded. Therefore, what are the hazards associated with pulleys greater than 20 inches diameter?
(2) It is recommended, however, that no projecting setscrews or oilcups be used in any revolving pulley or part of machinery.		
(i) Collars and couplings.		
(1) Collars. All revolving collars, including split collars, shall be cylindrical, and screws or bolts used in collars shall not project beyond the largest periphery of the collar.		(i)(1),(2) To what extent do revolving components cause injuries? Provide examples of hazards involved and supporting statistical data to substantiate any injuries.
(2) Couplings. Shaft couplings shall be so constructed as to present no hazard from bolts, nuts, setscrews, or revolving surfaces. Bolts, nuts, and setscrews will, however, be permitted where they are covered with safety sleeves or where they are used parallel with the shafting and are countersunk or else do not extend beyond the flange of the coupling.		Data and information is required as to whether other than cylindrical collars and couplings are in use.

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(j) Bearings and facilities for oiling.		(j) What hazards are present when a bearing is lubricated during operation of a machine?
Self lubricating bearings are recommended and all drip cups and pans shall be securely fastened.		
(k) Guarding of clutches, cutoff couplings, and clutch pulleys.		
(1) Guards. Clutches, cutoff couplings, or clutch pulleys having projecting parts, where such clutches are located seven (7) feet or less above the floor or working platform, shall be enclosed by a stationary guard constructed in accordance with this section. A "U" type guard is permissible.		(k)(1) When "U" type guards are used, how long shall they extend beyond the revolving component?
(2) Engine rooms. In engine rooms a guardrail, preferably with toeboard, may be used instead of the guard required by subparagraph (1) of this paragraph, provided such a room is occupied only by engineroom attendants.		(k)(2) See comment on paragraph (c)(5).
(3) Bearings. A bearing support immediately adjacent to a friction clutch or cutoff coupling shall have self-lubricating bearings requiring attention at infrequent intervals.		(k)(3) When "U" type guards are used, what hazards are associated with bearings adjacent to the revolving component?

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(1) Belt shifters, clutches, shippers, poles, perches, and fasteners.		
(1) Belt shifters.	A6.6 Belt Shifters.	(1)(1),(2),(3),(4) Since the following machine elements; belt shifters, clutches, shippers, poles, perches and fasteners, are an integral part of line shafting, data and information is requested on current usage.
(i) Tight and loose pulleys on all new installations made on or after August 31, 1971, shall be equipped with a permanent belt shifter provided with mechanical means to prevent belt from creeping from loose to tight pulley. It is recommended that old installations be changed to conform to this rule.	A6.6.1 Tight and loose pulleys should be equipped with a permanent belt shifter provided with mechanical means to prevent the belt from creeping from the loose to the tight pulley.	Comment is requested on hazards arising from any component of line shafting which may not be covered by the OSHA standard.
(ii) Belt shifter and clutch handles shall be rounded and be located as far as possible from danger of accidental contact, but within easy reach of the operator. Where belt shifters are not directly located over a machine or bench, the handles shall be cut off six feet six inches (6 ft. 6 in.) above floor level.	A6.6.2 Belt shifter and clutch handle should be rounded and located as far as possible from danger of accidential contact, but within easy reach of the operator. Where belt shifters are not directly located over a machine or bench, the handle should be cut off six feet - six inches above floor level.	
(iii) All belt and clutch shifters of the same type in each shop should move in the same direction to stop machines, i.e., either all right or all left. This does not apply to friction clutch or countershaft carrying two clutch pulleys with open and crossed belts, respectively. In this case the shifter handle has three positions and the	A6.6.3 All belt and clutch shifters of the same type in each shop should move in the same direction to stop machines, i.e., either all right or all left. NOTE: This does not apply to friction clutch on countershaft carrying two clutch pulleys with open and crossed belts, respectively. In this case the shifter handle has three	

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
machine is at a standstill when clutch handle is in the neutral or center position.	positions and the machine is at a standstill when the clutch handle is in neutral or center position.	
(2) Belt shippers and shipper poles. The use of belt poles as substitutes for mechanical shifters is not recommended. Where necessity compels their use, they shall be of sufficient size to enable workmen to grasp them securely. (A two-inch (2 in.) diameter or 1-1/2 by 2 inches cross-section is suggested.) Poles shall be smooth and preferably of straight grain hardwood, such as ash or hickory. The edges of rectangular poles should be rounded. Poles should extend from the top of the pulley to within about forty (40) inches of floor or working platform.		
(3) Belt perches. Where loose pulleys or idlers are not practicable, belt perches in form of brackets, rollers, etc., shall be used to keep idle belts away from the shafts. Perches should be substantial and designed for the safe shifting of belts.	A6.7 Belt Perches. Where loose pulleys or idlers are not practicable, belt perches in the form of brackets, rollers, etc., should be used to kpep idle belts away from the shafts. Perches should be substantial and designed for the safe shifting of belts.	
(4) Belt fasteners. Belts which of necessity must be shifted by hand and belts within seven (7) feet of the floor or working platform which are not guarded in accordance with this section shall not be fastened with metal in any case, nor with any other fastening which by construction or wear will constitute an accident hazard.		

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(m) Standard guards—general requirements.		
(1) Materials.	7. Types of Guarding 7.1 The general types of guards include those listed below or combination thereof.	(m)(1) Data and information is requested as to other materials which should be permitted or prohibited in the construction of guards.
(i) Standard conditions shall be secured by the use of the following materials. Expanded metal, perforated or solid sheet metal, wire mesh on a frame of angle iron, or iron pipe securely fastened to floor or to frame of machine.	7.1.1 Enclosure. This type covers the majority of guards under this standard. They function to prevent access or physical contact by parts of the body to moving parts at all times by enclosing or shielding the hazard and to restrain broken parts from flying about. Enclosures are normally fixed; they may be built into the machine by design or securely attached to the machine. These include, but are not limited to, completely enclosed guards, "U" and trough guards, cylindrical caps. (See Section 8). 7.1.2 By Location. This type covers position of equipment which by its location does not normally present a hazard in operation or maintenance procedures. Where a hazard exists during maintenance, the equipment must be shut down and all power locked out or the equipment guarded in accordance with Section 9 of this standard.	Since particular materials should be considered in conjunction with specified guarding techniques, information is also requested as to special situations in which guards constructed of particular materials do not afford adequate protection to employees.
(2) Methods of manufacture.		
(i) Expanded metal, sheet or perforated metal, and wire mesh shall be securely fastened to frame by one of the following methods:		(m)(2) Comment is requested on the appropriateness of designing a guard to withstand a specified load or a predetermined deflection and on design parameters for each design characteristic.

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(a) With rivets or bolts spaced not more than five (5) inches center to center. In case of expanded metal or wire mesh, metal strips or clips shall be used to form a washer for rivets or bolts. (b) By welding to frame every four (4) inches. (c) By weaving through channel or angle frame, or if No. 14 gage 3/4-inch mesh or heavier is used by bending entirely around rod frames. (d) Where openings in pipe railing are to be filled in with expanded metal, wire mesh or sheet metal, the filler material shall be made into panels with rolled edges or bound with "Y" or "U" edging of No. 24 gage or heavier sheet metal fastened to the panels with bolts or rivets spaced not more than five (5) inches center to center. The bound panels shall be fastened to the railing by sheet-metal clips spaced not more than five (5) inches center to center. (e) Diamond or square mesh made of crimped wire fastened into channels, angle or round-iron frames, may also be used as a filler in guards. Size of mesh shall correspond to Table O-12.	7.1.3 Rails and Fences. This type of limited protection covers railings and fences intended to restrict and warn against inadvertent access to dangerous areas or hazardous elements. If a railing or fence is less than 42 inches from such hazard, then guards or enclosures meeting other requirements in this standard shall be applied to the hazardous element. (See Section 10.) 7.1.3.1 If the area between the rail or fence and the hazardous element is used as a passageway, the hazardous elements must be guarded according to the requirements of Section 8 or 9.	

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(ii) Where the design of guards requires filler material of greater area than 12 square feet, additional frame members shall be provided to maintain panel area within this limit.		
(iii) All joints of framework shall be made equivalent in strength to the material of the frame.		(m)(2)(iii) Since strength of a guard varies relative to the point of load application, should the design of frame joints be specified?
(n) Disk, shield, and "U" guards.		
(1) Disk guards. A disk guard shall consist of a sheet-metal disk not less than No. 22 gage fastened by "U" bolts or rivets to spokes of pulleys, flywheels, or gears. Where possibility of contact with sharp edges of the disk exists, the edge shall be rolled or wired. In all cases the nuts shall be provided with locknuts which shall be placed on the unexposed side of the wheel.		(n)(1),(2),(3) What other materials and fastening techniques should be allowed or prohibited? Information is solicited as to any methods of building guards so that they are part of the mechanical components and in such a manner as to provide employee safety.
(2) Shield guards.		(n)(2) Should a relationship between size of opening and distance from hazard be established? If so, provide distances and supportive data for such a relationship.
(i) A shield guard shall consist of a frame filled in with wire mesh, expanded, perforated, or sold sheet metal.		
(ii) If area of shield does not exceed six (6) square feet the wire mesh or expanded metal may be fastened in a framework of 3/8-inch solid rod, 3/4-inch by 1/8-inch angle iron or metal		

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
construction of equivalent strength. Metal shields may have edges entirely rolled around a 3/8-inch solid iron rod.		
(3) "U" guards. A "U" guard consisting of a flat surface with edge members shall be designed to cover the under surface and lower edge of a belt, multiple chain, or rope drive. It shall be constructed of materials specified in Table O-12, and shall conform to the requirements of paragraphs (o)(3) and (4) of this section. Edges shall be smooth and, if size of guard requires, these edges shall be reinforced by rolling, wiring, or by binding with angle or flat iron.		(n)(3) Should "U" guards constructed in a manner different than specified in this paragraph be permitted?
(o) Approved materials.		
(1) Minimum requirements. The materials and dimensions specified in this paragraph shall apply to all guards, except horizontal overhead belts, rope, cable, or chain guards more than seven (7) feet above floor, or platform. (For the latter, see Table O-13.)	8. Requirements for Enclosures 8.1 The guard itself shall prevent inadvertent placing of any part of the body in, on or over edges of the guard where it might contact a moving part.	(o)(1) A structural analysis of the members listed within Section (o) indicate inconsistent strengths for the various members. Comments from engineers concerning a systems approach to design of guards is requested.
(i) Minimum dimensions of materials for the framework of all guards, except as noted in subdivision (i)(c) shall be angle iron 1 inch by 1 inch by 1/8 inch, metal pipe of 3/4 inch inside diameter or metal construction of equivalent strength.	8.2 Guards shall be constructed of expanded perforated or solid sheet metal, wire mesh, plastic or other material of equivalent or greater strength to meet requirements of 8.3 and 8.4. Such material shall be free from burrs or sharp edges of corners. Guards shall be securely fastened to the building or framework of the machine.	(o)(1)(i) Since paragraph (o)(1)(i)(c) relates to the size of the framework, should the exception also include this paragraph?

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	Table O-12 Comments and suggestions are requested as to changes in Table O-12. Program directive 100-52 permits use of polycarbonate, acrylic or other materials which provide equal or better protection. What other materials should be included and how should this table incorporate these materials? Should the tabulation be replaced with general guarding specifications; also, what parameters and criteria should be established?

TABLE O-12—TABLE OF STANDARD MATERIALS AND DIMENSIONS

Material	Clearance from moving part at all points	Largest mesh or opening allowable	Minimum gauge (U.S. standard) or thickness	Minimum height of guard from floor or platform level
	Inches	*Inches*		*Feet*
Woven wire	Under 2	½	No. 18	▶
	2-4	½	No. 16	
	Over 4	½	No. 16	
	4-13	1	No. 13	
Expanded metal	Under 4	½	No. 18	
	4-18	2	No. 13	
Perforated metal	Under 4	½	No. 20	
	4-18	2	No. 14	
Sheet metal	Under 4		No. 22	
	4-18		No. 20	
Wood or metal strip crossed	Under 4	½	Wood ½, Metal No. 16.	
	4-18	1	Wood ½, Metal No. 16.	
Wood or metal strip not crossed	Under 4	½ width	Wood ½, Metal No. 16.	
	4-18	1 width	Wood ½, Metal No. 16.	
Standard rail	Min. 18			
	Max. 20			

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
	8.3 The enclosure and its supports shall be substantially designed so that an adult person leaning on, or falling against, the enclosure will not sustain an injury from the moving part.	
		Table O-13. Is this table applicable to present day state-of-the-art technology? If not, how should it be revised? Should Table O-13 be expanded to include belts less than 10 inches wide?

TABLE O-13—HORIZONTAL OVERHEAD BELTS, BOOTS, AND CHAINS 7 FEET OR MORE ABOVE FLOOR OR PLATFORM

	Width			
	From 10" to 14" inclusive	Over 14" to 24" inclusive	Over 24"	Material
GUARDS				
Framework	1¼" x 1¼" x ⅛"	2" x 2" x ⅛"	2" x 2" x ⅛"	Angle iron.
Filler (belt guards)	1¼" x ⅛"	2" x ⅛"	2" x ⅛"	Flat iron.
Filler and vertical side members	No. 18 A. W. G.	No. 16 A. W. G.	No. 14 A. W. G.	Solid sheet metal.
Filler supports	2" x ¼" flat iron	2" x ¼" flat iron	2½" x 2½" x ¼" angle	Flat and angle.
Guard supports	2" x ¼"	2" x ¼"	2½" x ¼"	Flat iron.
FASTENINGS				
Filler supports to framework	(2) ¼"	(2) ¼"	(2) ¼"	Rivets.
Filler bolts to supports (belt guards)	(2) ¼"	(2) ¼"	(2) ¼"	Flush screws.
Filler to frame and supports (chain guards)	¼" rivets spaced	6" centers on sides and 4" centers on bottom.		
Guard supports to frame work	(2) ½"	(2) ½"	(2) ½"	Rivets or bolts.
Guard and supports to overhead ceiling	½" x 2½" lag screws or ½" bolts.	½" x 3" lag screws or ½" bolts.	½" x 3" lag screws or ½" bolts.	Lag screws or bolts.
DETAILS—SPACING, ETC.				
Width of guards	One-quarter wider than belt, rope, or chain drive.			
Spacing between filler supports	10' C. to C.	10' C. to C.	10' C. to C.	
Spacing between filler bolts (belt guards)	2' apart	2½' apart	2' apart	
Spacing between guard supports	10' C. to C.	10' C. to C.	10' C. to C.	
OTHER BELT GUARD FASTENINGS PERMITTED				
Sheet metal between ends in chain guards	No. 20 A. W. G.	No. 18 A. W. G.	No. 16 A. W. G.	Solid or perforated.
Woven wire, 2" mesh	No. 12 A. W. G.	No. 10 A. W. G.	No. 8 A. W. G.	
CLEARANCE FROM OUTSIDE OF BELT, ROPE, OR CHAIN DRIVE TO GUARD				
Distance center to center of shafts	Up to 10' inclusive.	Over 10' to 25' inclusive.	Over 25' to 40' inclusive.	Over 40'.
Clearance from belt, or chain to guard	6"	10"	15"	20"

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(a) All guards shall be rigidly braced every three (3) feet or fractional part of their height to some fixed part of machinery or building structure. Where guard is exposed to contact with moving equipment additional strength may be necessary.	8.4 Where there is a reasonable possibility of the moving part failing and causing injury, the enclosure shall be adequate to contain the broken parts. (See Appendix.)	(o)(1)(i)(a) Should bracing at intervals greater than 3 feet be allowed where a guard prevents contact with moving equipment?
(b) The framework for all guards fastened to floor or working platform and without other support or bracing shall consist of 1-1/2-inch by 1-1/2-inch by 1/8-inch angle iron, metal pipe of 1-1/2-inch inside diameter, or metal construction of equivalent strength. All rectangular guards shall have at least four upright frame members each of which shall be carried to the floor and be securely fastened thereto. Cylindrical guards shall have at least three supporting members carried to floor.	8.5 Enclosure openings shall conform to the attached chart; Fig. 1 and Fig. 2. 8.5.1 This chart shows the maximum size opening permitted in a guard in relation to the distance from the moving part which provides reasonable safety. Thus, 1/4 inch openings are permitted up to 1-1/2 inches from a moving part, 1/2 inch openings from 2-1/2 inches to 3-1/2 inch, and 7/8 inch openings from 6-1/2 inches to 7-1/2 inches, etc. 8.5.2 When the guard is partially open on the machine side as shown in Fig. 2, the distance to the moving part is a variable based on the opening A, as taken from the above chart, and shall be whichever is less of either the distance B or the distance C+D (the sum of the depth of the guard lip and the distance from the edge of the lip to the moving part).	
(c) Guards thirty (30) inches or less in height and with a total surface area not in excess of ten (10) square feet may have a framework of 3/8-inch solid rod, 3/4 inch by 3/4-inch by 1/8-inch angle, or metal construction of equivalent strength. The filling material shall correspond to the requirements of Table O-12.	8.6 Openings to permit lubrication, adjustment or inspection shall have hinged, sliding or bolted cover plates of any design that cannot be removed and will stay closed while the opening is not in use.	(o)(1)(i)(c) Data and information is requested on the hazards to which this paragraph is directed and on the appropriateness of specifications continued therein.

Present Standard	Latest ANSI Standard	Comments
1910.219 (11) The specifications given in Table O-12 and subdivision (i) of this subparagraph are minimum requirements; where guards are exposed to unusual wear, detericration or impact, heavier material and construction should be used to protect amply against the specific hazards involved.	B15.1-1972 9. Requirements for Guarding by Location 9.1 Equipment guarded by location shall by remoteness from the working areas remove the foreseeable risk of contact by persons. 9.1.1 To be guarded by location or position any moving part shall be at least 96 inches above the walkway, platform or workspace. Where the equipment has in-running nips, shear points or moving projections, it shall be a minimum of 108 inches above the pertinent floor, platform, or working level.	

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	ANSI Fig. 1. Comment is requested about the appropriateness of including this chart in the OSHA standard. Data and information is requested as to the appropriateness of this chart to guard construction.

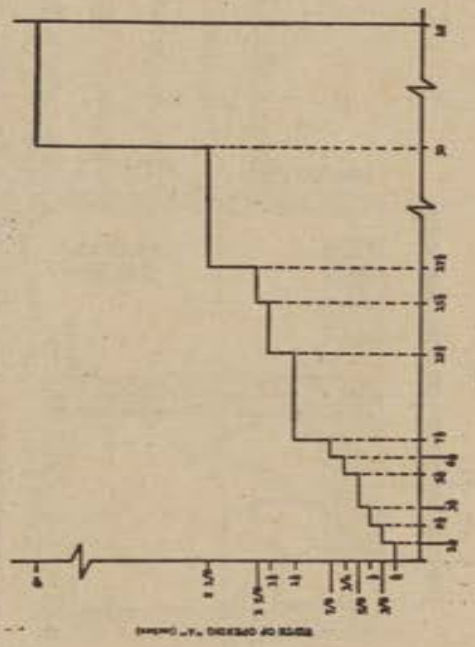
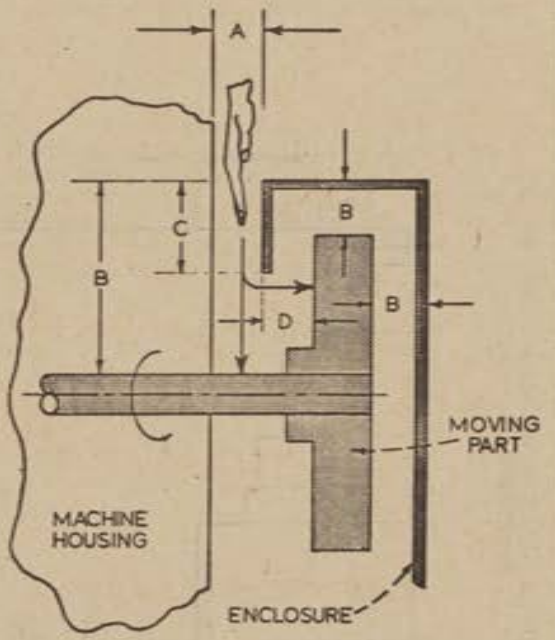
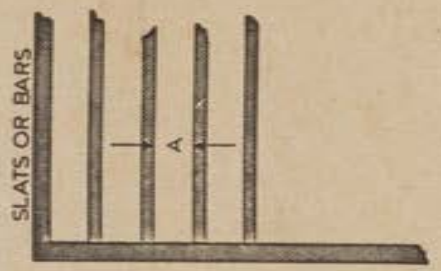
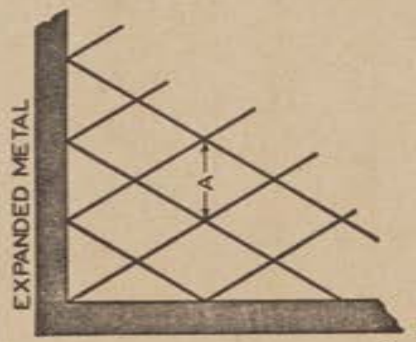


Fig. 1
Distance to Moving Parts,
"D" or "C+D," whichever is greater (inches)

Present Standard	Latest ANSI Standard	Comments
	 Fig. 2	

Present Standard	Latest ANSI Standard	Comments
	  Fig. 3 Method of Measuring Opening "A"	

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(2) Wood guards.		
(i) Wood guards may be used in the woodworking and chemical industries, in industries where the presence of fumes or where manufacturing conditions would cause the rapid deterioration of metal guards; also in construction work and in locations outdoors where extreme cold or extreme heat make metal guards and railings undesirable. In all other industries, wood guards shall not be used.		(o)(2)(i) Under what other conditions should wooden guards be permitted? Are there any situations in particular industries where wooden guards should be prohibited? Variance 425 indicated that existing wooden guards with smooth painted exterior surfaces may continue to be used in place of the required metal types.
(ii)		
(a) Wood shall be sound, tough, and free from any loose knots.		
(b) Guards shall be made of planed lumber not less than one (1) inch rough board measure, and edges and corners rounded off.		(o)(2)(ii)(b) Comment is requested on allowing the use of plywood and other laminates less than 1 inch thick to fabricate guards.
(c) Wood guards shall be securely fastened together with wood screws, hardwood dowel pins, bolts, or rivets.		(o)(2)(ii)(c) Should other fastener techniques be considered? Equal strength requires determining the strength of metal guards in order to design a wooden guard. Information and data is solicited on the methods of determining criteria for wooden guards.

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(d) While no definite dimensions are given under this heading for framework or filler materials, wood guards shall be equal in strength and rigidity to metal guards specified in subparagraphs (1)(i) and (ii) of this paragraph and Table O-12.		
(e) For construction of standard wood railing, see subparagraph (5) of this paragraph.		
(3) Guards for horizontal overhead belts.		
(i) Guards for horizontal overhead belts shall run the entire length of the belt and follow the line of the pulley to the ceiling or be carried to the nearest wall, thus enclosing the belt effectively. Where belts are so located as to make it impracticable to carry the guard to wall or ceiling, construction of guard shall be such as to enclose completely the top and bottom runs of belts and the face of pulleys.		(o)(3)(i) If the purpose of a guard is to prevent a broken belt from hitting an employee, can a guard be constructed in another manner to accomplish this objective?
(ii) The guard and all its supporting members shall be securely fastened to wall or ceiling by gimlet-point lag screws or through bolts. In case of masonry construction, expansion bolts shall be used. The use of bolts placed horizontally through floor beams or ceiling rafters is recommended.		(o)(3)(ii) Are any of the design instructions within paragraph (o)(3)(ii) and (iii) related to employee safety? Should design techniques be stated or should performance oriented criteria be developed? What parameters should be considered in developing performance criteria?

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(iii) Suitable reinforcement shall be provided for the ceiling rafters or overhead floor beams, where such is necessary, to sustain safely the weight and stress likely to be imposed by the guard. The interior surface of all guards, by which is meant the surface of the guard with which a belt will come in contact, shall be smooth and free from all projections of any character, except where construction demands it; protruding shallow round-head rivets may be used. Overhead belt guards shall be at least one-quarter wider than belt which they protect, except that this clearance need not in any case exceed six (6) inches on each side. Overhead rope drive and block and roller-chain-drive guards shall be not less than six (6) inches wider than the drive on each side. In overhead silent chain-drive guards where the chain is held from lateral displacement on the sprockets, the side clearances required on drives of twenty (20) inch centers or under shall be not less than one-fourth inch from the nearest moving chain part, and on drive of over twenty (20) inch centers a minimum of one-half inch from the nearest moving chain part.		
(iv) Table O-13 gives the sizes of materials to be used and the general construction specifications of guards for belts ten (10) inches or more in		(o)(3)(iv) Selection of structural shapes depend on the individual guard design; therefore, what kind of criteria would be applicable to different guard designs?

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
width. No material for overhead belt guards should be smaller than that specified in Table O-13 for belts ten (10) to fourteen (14) inches wide, even if the overhead belt is less than ten (10) inches in width. However, No. 20 gage sheet metal may be used as a filler on guards for belts less than ten (10) inches wide. Expanded metal, because of the sharp edges, should not be used as a filler in horizontal belt guards.		
(v) For clearance between guards and belts, ropes or chains of various center to center dimensions between the shafts, see bottom of Table O-13.		(o)(3)(v) The clearance dimensions in Table O-13 are not applicable to V-belts requiring specified amounts of tension. Data and information is solicited on appropriate dimensions.
(4) Guards for horizontal overhead rope and chain drives. Overhead-rope and chain-drive guard construction shall conform to the rules for overhead-belt guard construction of similar width, except that the filler material shall be of the solid type as shown in Table O-13, unless the fire hazard demands the use of open construction. A side guard member of the same solid filling material should be carried up in a vertical position two (2) inches above the level of the lower run of the rope or chain drive and two (2) inches within the periphery of the pulleys which the guard encloses thus forming a trough. These side edges with 1-1/2-inch by 1/4-inch flat steel, riveted to the filling material material at not greater than eight (8) inch centers; the reinforcing strip should		(o)(4) If the purpose of overhead guards is to confine a broken power transmission component, why should rope and chain guards be treated differently than overhead belt guards?

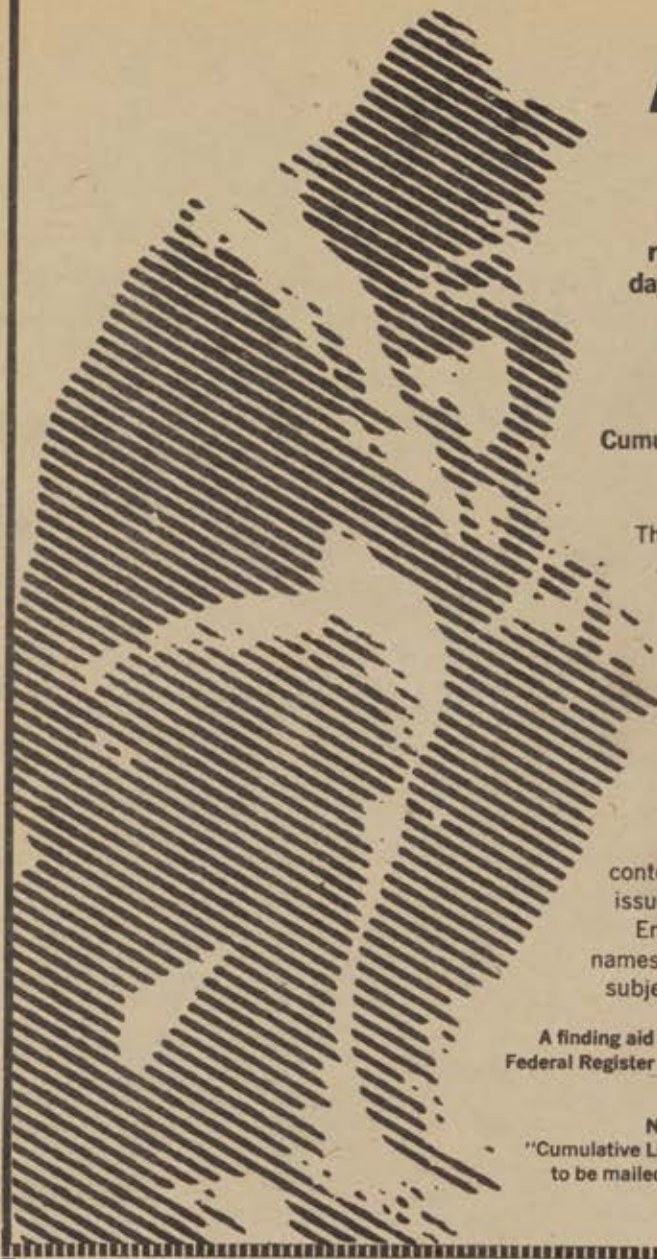
Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
be fastened or bolted to all guard supporting members with at least one 3/8-inch rivet or bolt at each intersection, and the ends should be secured to the ceiling with lag screws or bolts. The filling material guard and the filler supports by 3/16-inch rivets spaced on 4-inch centers. The width of the multiple drive shall be determined by measuring the distance from the outside of the first to the outside of the last rope or chain in the group accommodated by the pulley.		
(5) Guardrails and toeboards. (i) Guardrail shall be forty-two (42) inches in height, with midrail between top rail and floor. (ii) Posts shall be not more than eight (8) feet apart; they are to be permanent and substantial, smooth, and free from protruding nails, bolts, and splinters. If made of pipe, the post shall be one and one-fourth (1-1/4) inches inside diameter, or larger. If made of metal shapes or bars, their section shall be equal in strength to that of one and one-half (1-1/2) by three-sixteenths (3/16) inch angle iron. If made of wood, the post shall be two by four (2 x 4) inches or larger. The upper rail shall be two by four (2 x 4) inches, or two one by four (1 x 4) strips, one at the top and one at the side of posts. The midrail may be one by four (1 x 4) inches or more. The rails (metal shapes, metal bars, or	10. Requirements for Rails and Fences 10.1 Use of rails or fences shall be limited to cases where enclosure or guarding by location cannot be reasonably achieved. 10.1.1 Any such method of protection shall conform to ANSI: A12.1-1967 "Safety Requirements for Floor and Wall Openings, Railings and Toeboards" or latest revision thereof.	(o)(5) It has been suggested that the guardrail and toeboard requirements of this standard be made consistent with CFR Part 1910, Subpart D, except where a filler material (panel) is used. Comment is solicited on the appropriateness of this suggestion, and on specific Subpart D requirements which should not be included. Since the purpose of a guardrail is to provide safety by location, under what circumstances would the toeboard be necessary for employee protection?

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
wood), should be on that side of the posts which gives the best protection and support. Where panels are fitted with expanded metal or wire mesh as noted in Table O-12 the middle rails may be omitted. Where guard is exposed to contact with moving equipment, additional strength may be necessary. (iii) Toeboards shall be four (4) inches or more in height, of wood, metal, or of metal grill not exceeding one (1) inch mesh. Toeboards at flywheel pits should preferably be placed as close to edge of the pit as possible.		
(p) Care of equipment.	A7. Operation and Maintenance	
(1) General. All power-transmission equipment shall be inspected at intervals not exceeding 60 days and be kept in good working condition at all times.	A7.1 Inspection. All power transmission equipment should be inspection at regular intervals, such as every 60 days, and kept in good working condition at all times. Inspection items should include alignment, adjustment, rust, and excess lubricants of shafting, bearing and pulleys. Where explosive dusts, flammable vapors or liquids exist, the hazards of static sparks from shafting or belts should be eliminated. Cast iron pulleys should be tested at regular intervals for cracks in the rims or spokes.	(p)(1),(2),(3),(4),(5) It has been suggested that some sections of paragraph (p) relate only to property protection. Which of the requirements of this paragraph are relevant to employee safety?

Present Standard	Latest ANSI Standard	Comments
1910.219 (2) Shafting. (i) Shafting shall be kept in alignment, free from rust and excess oil or grease. (ii) Where explosives, explosive dusts, flammable vapors or flammable liquids exist, the hazard of static sparks from shafting shall be carefully considered. (3) Bearings. Bearings shall be kept in alignment and properly adjusted. (4) Hangers. Hangers shall be inspected to make certain that all supporting bolts and boxes are adjusted properly. (5) Pulleys. (i) Pulleys shall be kept in proper alignment to prevent belts from running off. (ii) One or both pulleys carrying a nonshifting belt should have crowned faces. (iii) Cast-iron pulleys should be tested frequently with a hammer to disclose cracks in rim or spokes. It should be borne in mind that the sound is usually the pulley. (iv) Split pulleys should be inspected to ascertain if all bolts holding together the sections of the pulley are tight.	B15.1-1972	

Present Standard	Latest ANSI Standard	Comments
1910.219	B15.1-1972	
(6) Care of belts. (i) Quarter-twist belts when installed without an idler can be used on drives running in one direction only. They will run off a pulley when direction of motion is reversed. (ii) Inspection shall be made of belts, lacings, and fasteners and such equipment kept in good repair. (iii) Where possible, dressing should not be applied when belt or rope is in motion; but, if this is necessary, it should be applied where belts or rope leave pulley, not where they approach. The same precautions apply to lubricating chains. In the case of V-belts, belt dressing is neither necessary nor advisable.	A7.3 Care of Belts. Quarter-twist belts when installed without an idler can be used on drives running in one direction only. They will run off a pulley when direction of motion is reversed. Regular inspection should be made of belts, lacings, and fasteners and such equipment kept in good repair. Belt dressing should not be applied when the belt or rope is in motion; but, if this is necessary, it should be applied where belts or ropes leave the pulleys, not where they approach. The same precautions apply to lubricating chains. In the case of V-belts, belt dressing is neither necessary nor advisable. The hazard of static electricity from belts should be carefully considered where explosives, explosive dusts, flammable vapors or flammable liquids exist. The National Fire Code, #33, Paragraph 507, prohibits the use of belts in spray booths unless totally enclosed.	(p)(6)(iii) Comments are requested concerning the hazard involved in the dressing of belts while they are in motion. OSHA has received a petition stating that belt dressing on V-belts is necessary because the dressing reduces both slippage and the operating temperature of belts. Comment on this matter is requested.
(7) Lubrication. The regular oilers shall wear tight-fitting clothing and should use cans with long spouts to keep their hands out of danger. Machinery shall be oiled when not in motion, wherever possible.	A7.2 Lubrication. Standard oiling practice recommends drip pans under all overhead equipment. Oilers should wear tight fitting clothing and use oil cans with long spouts. Machinery should never be in motion when being lubricated unless lubrication is automatic, or a long, gravity flow spout will enable the oiler to stand in the clear while carrying out his job.	

[FR Doc.77-101 Filed 1-6-77;8:45 am]



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