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federal register

FRIDAY, FEBRUARY 4, 1977

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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
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	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.

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Title 3—The President

Executive Order 11968 • **January 31, 1977**

Withholding of District of Columbia, State and City Income or Employment Taxes

By virtue of the authority vested in me by Sections 5516, 5517 and 5520 of Title 5 of the United States Code, and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Whenever the Secretary of the Treasury enters into an agreement pursuant to Sections 5516, 5517, or 5520 of Title 5 of the United States Code, with the District of Columbia, a State, or a city, as the case may be, with regard to the withholding, by an agency of the United States, hereinafter referred to as an agency, of income or employment taxes from the pay of Federal employees or members of the Armed Forces, the Secretary of the Treasury shall ensure that each agreement is consistent with those sections and regulations, including this Order, issued thereunder.

SEC. 2. Each agreement shall provide (a) when tax withholding shall begin, (b) that the head of an agency may rely on the withholding certificate of an employee or a member of the Armed Forces in withholding taxes, (c) that the method for calculating the amount to be withheld for District of Columbia, State or city income or employment taxes shall produce approximately the tax required to be withheld by the District of Columbia or State law, or city ordinance, whichever is applicable, and (d) that procedures for the withholding, filing of returns, and payment of the withheld taxes to the District of Columbia, State or city shall conform to the usual fiscal practices of agencies. Any agreement affecting members of the Armed Forces shall also provide that the head of an agency may rely on the certificate of legal residence of a member of the Armed Forces in determining his or her residence for tax withholding purposes. No agreement shall require the collection by an agency of delinquent tax liabilities of an employee or a member of the Armed Forces.

SEC. 3. The head of each agency shall designate, or provide for the designation of, the officers or employees whose duty it shall be to withhold taxes, file required returns, and direct payment of the taxes withheld, in accordance with this Order, any regulations prescribed by the Secretary of the Treasury, and the applicable agreement.

SEC. 4. The Secretary of the Treasury is authorized to prescribe additional regulations to implement Sections 5516, 5517, and 5520 of Title 5 of the United States Code, and this Order.

SEC. 5. Executive Order Nos. 10407 of November 6, 1952, 10672 of July 9, 1956, and 11863 of June 12, 1975, are hereby revoked. However, all actions heretofore taken by the President or his delegates in respect of the matters affected by this Order and in force at the time of the issuance of this Order, including any regulations prescribed or approved by the President or his delegates in respect of such matters and any existing agreements approved by his delegates, shall, except as they may be inconsistent with the provisions of this Order, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this Order, unless sooner terminated by operation of law.

Jimmy Carter

THE WHITE HOUSE,
January 31, 1977.

[FR Doc.77-3827 Filed 2-2-77; 3:11 pm]

Proclamation 4485 • February 2, 1977

Declaring a Natural Gas Emergency

By the President of the United States of America

A Proclamation

Abnormal weather conditions have caused prevailing temperatures in the United States, particularly in the East and Midwest, to be well below normal for the past three months. Many interstate natural gas pipelines and local natural gas distribution companies do not have sufficient supplies of flowing or stored gas to meet current demand. The shortage of natural gas available to some interstate pipelines and local distribution companies has been so severe as to cause them to curtail or to be in imminent danger of curtailing natural gas supplies to residences, small commercial establishments and other high priority users, so as to endanger life or health, and risk damage to plant or other facilities.

Other interstate pipelines and distribution companies, however, have more than adequate supplies of natural gas to meet the needs of residences, small commercial establishments and other high priority users.

In light of the severe shortage of natural gas supplies available to some firms and the disparity of natural gas supplies in various regions of the United States, the exercise of extraordinary authority for emergency deliveries and transportation of natural gas pursuant to Section 4 of the Emergency Natural Gas Act of 1977 is necessary to assist in meeting the requirements of natural gas for residences, small commercial establishments, and other high priority users in the United States or regions thereof. No measures other than those authorized by Section 4 of the Emergency Natural Gas Act of 1977 are adequate to assist in meeting the requirements of natural gas for residences, small commercial establishments, and other high priority users in the United States or regions thereof.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by virtue of the authority vested in me by the Constitution and statutes of the United States, including the Emergency Natural Gas Act of 1977, do hereby proclaim and declare that a natural gas emergency exists within the meaning of Section 3 of said Act.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of February, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and first.

Jimmy Carter

[FR Doc.77-3907 Filed 2-3-77;12:02 pm]

Executive Order 11969 • February 2, 1977

Administration of the Emergency Natural Gas Act of 1977

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Section 13 of the Emergency Natural Gas Act of 1977 (Public Law 95–2), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. There is hereby delegated to the Chairman of the Federal Power Commission, hereafter the Chairman, all of the authority vested in the President by the Emergency Natural Gas Act of 1977, except for the authority to declare and terminate a natural gas emergency pursuant to Section 3 of said Act. Nothing in such delegation shall be construed as delegating such authority to the Federal Power Commission as a collective body, except insofar as the Chairman may further delegate his authority under Section 3 of this Order.

SEC. 2. The Chairman shall, to the extent he deems appropriate, consult with the Secretary of the Interior, the Administrator of the Federal Energy Administration, other members of the Federal Power Commission and the heads of other Executive agencies in exercising the authority delegated to him by this Order.

SEC. 3. All authority delegated to the Chairman by this Order may be further delegated, in whole or in part, by the Chairman to any other officer of the United States or to any Executive agency.

SEC. 4. The heads of all Executive agencies shall cooperate with and assist the Chairman in carrying out the authority delegated to him by this Order.

SEC. 5. All Executive agencies shall, to the extent permitted by law, provide the Chairman on request such administrative support and information as may be necessary to carry out the authority delegated to him by this Order.

Jimmy Carter

THE WHITE HOUSE,
February 2, 1977.

[FR Doc.77-3906 Filed 2-3-77;12:01 pm]

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 Defense; Department of the Army

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: The Secretary of Defense has delegated to the Under Secretary of the Army the authority to command the D.C. National Guard. Accordingly, the position of Adjutant General to the Director of the D.C. National Guard is transferred to the Office of the Under Secretary of the Army.

EFFECTIVE DATE: February 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Dean D. Larrick, 202–632–4533.

Accordingly, 5 CFR 213.3306(a)(19) is revoked and § 213.3307(b) is added as set out below:

§ 213.3306 **Department of Defense.**

(a) *Office of the Secretary.* * * *
(19) [Revoked]

* * * * *

§ 213.3307 **Department of the Army.**

* * * * *

(b) *Office of the Under Secretary.* (1) Adjutant General to the Director of the D.C. National Guard.

(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.77-3481 Filed 2-3-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment increases the number of professional positions from 50 to 70 and the clerical positions from four to five authorized under Schedule A in the Social and Rehabilitation Service.

EFFECTIVE DATE: February 4, 1977.

FOR FURTHER INFORMATION CONTACT: Dean D. Larrick, 202–632–4533.

Accordingly, 5 CFR 213.3116(g)(2) is amended as follows:

§ 213.3116 **Department of Health, Education, and Welfare.**

* * * * *

(g) *Social and Rehabilitation Service.* * * *

(2) Not to exceed 70 professional and five clerical positions directly concerned with special teams to review the Medicaid program in selected states. Employment under this authority may not exceed June 30, 1979.

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

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

[FR Doc.77-3482 Filed 2-3-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C four positions of Secretary (Stenography) to the Secretary of State because the positions are confidential in nature.

EFFECTIVE DATE: February 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Dean D. Larrick, 202–632–4533.

Accordingly, 5 CFR 213.3304(a)(4) is added as follows:

§ 213.3304 **Department of State.**

(a) *Office of the Secretary.* * * *
(4) Four Secretaries (Stenography) to the Secretary.

(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.77-3483 Filed 2-3-77;8:45 am]

PART 831—RETIREMENT

Reemployment of Retired Employees

Subpart H is revised in its entirety to implement provisions of section 8344 (a), (b) and (c) of title 5, United States Code, as amended and reenacted by Public Law 94–397, approved September 3, 1976. Provisions governing (1) the reemployment of annuitants found recovered or restored to earning capacity before age 60 and (2) the reemployment of annuitants whose annuity is based on involuntary separation for reasons other than age or misconduct or delinquency, are deleted as no longer necessary since they now appear in detail in section 8337 and 8344 of title 5, United States Code. Provisions governing eligibility for supplemental annuity and redetermination of annuity following reemployment service are revised (1) to include part-time reemployment service as well as full-time reemployment service as creditable service for computing eligibility for such annuity and (2) to extend eligibility for such annuity to annuitants whose annuity is based on an involuntary separation. New provisions are also added to clarify annuity entitlement following termination of annuity upon reemployment.

Subpart H is revised to read as follows:

Subpart H—Reemployment of Retired Employees

Secs.
831.801 Definition of annuitant.
831.802 Supplemental annuity and redetermined annuity.
831.803 Annuity entitlement following termination of annuity upon reemployment.

AUTHORITY: 5 U.S.C. 8347(a).

Subpart H—Reemployment of Retired Employees

§ 831.801 **Definition of annuitant.**

(a) In this subpart, "annuitant" means a former employee who is receiving, or meets the legal requirements and is an applicant for an annuity under subchapter III of chapter 83 of title 5, United States Code, based on his or her service.

(b) This subpart applies to annuitants serving in an appointive or elective position on or after October 1, 1976, subject to continuation of pay and reduction of pay by the amount of annuity allocable to the period of reemployment in accord with section 8344(a) of title 5, United States Code.

§ 831.802 **Supplemental annuity and redetermined annuity.**

(a) When an annuitant is employed continuously for at least one year in an appointive or elective position and actually serves for at least one year on a full-time basis, or the equivalent of one year of full-time service on a part-time basis, in a position not excluded from coverage by section 8331(1) (i) and (ii) of title 5, United States Code, the annuitant is entitled to a supplemental annuity on termination of the employment by separation for more than three calendar days or by conversion to intermittent status. The supplemental annuity is (1) computed under the formula provided by the law in effect at the date of termination of employment, (2) based on all pe-

riods of full-time or part-time service performed after his or her retirement, with such periods considered as part of his or her total service, and (3) based on the average basic pay (before annuity deduction) received during the periods of employment.

(b) If the annuitant is employed continuously for at least five years in an appointive or elective position and actually serves for at least 5 years on a full-time basis, or the equivalent of 5 years of full-time service on a part-time basis, in a position not excluded from coverage by section 8331(1) (i) and (ii) of title 5, United States Code, the annuitant may make deposit in the retirement fund covering such employment and elect, instead of the supplemental annuity described herein, to have his or her retirement rights redetermined under the law in effect at separation date.

(c) The supplemental or redetermined annuity commences (1) on the day after separation from such employment or (2) on the day after the annuitant is converted to an intermittent status and meets the service requirements.

(d) Employment is considered continuous unless interrupted by a separation from service exceeding three calendar days, but credit is not allowed for any period of separation or nonpay status which exceeds three calendar days.

(e) Full-time service means any actual service in which the reemployed annuitant is scheduled to work the number of hours and days required by the administrative workweek for his or her grade or class (normally 40 hours).

(f) Part-time service means any actual service performed on a less than full-time basis under a prescheduled regular tour of duty.

(g) Intermittent service means any actual service performed on a less than full-time basis with no prescheduled regular tour of duty.

§ 831.803 Annuity entitlement following termination of annuity upon reemployment.

When an individual's annuity is terminated upon reemployment subject to subchapter III of chapter 83, title 5, United States Code, in accord with the provisions of section 8344 (a), (b) and (c) of title 5, United States Code, the Commission shall determine the individual's future annuity rights under the law in effect at the date of his or her subsequent separation. If upon separation from such reemployment the individual does not meet the eligibility requirements under subchapter III of chapter 83, title 5, United States Code, for title to annuity based on such separation, the Commission shall resume payment of the terminated annuity. Annuity increases authorized under section 8340 of title 5, United States Code, between the termination and resumption of annuity, will be applied to increase the resumed rate. (5 U.S.C. 8347(a).)

Effective date: October 1, 1976.

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

[FR Doc.77-3479 Filed 2-3-77;8:45 am]

Title 9—Animals and Animal Products

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

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

PART 113—STANDARD REQUIREMENTS

Revision of Potency Tests for Rabies Virus Vaccines

• *Purpose.* To revise potency tests for rabies virus vaccines so that the requirements will be uniform for both the live and killed virus types. •

On September 3, 1976, a notice of proposed amendments to Part 113 was published in the FEDERAL REGISTER, Volume 41, Number 173, page 37338. Comments were received from three licensees and from personnel at the Veterinary Services Laboratories.

Statement of Considerations. Rabies vaccines contain either killed rabies virus or modified live rabies virus. Both types of vaccines are presently used throughout the United States in rabies control programs. The Standard Requirements for these vaccines are prescribed in § 113.129 (killed virus vaccine) and § 113.147 (modified live virus vaccine). These amendments will make the requirements uniform for both types of vaccines.

To conform with the established policy of codifying test procedures used in more than one Standard Requirement in a separate section under the heading of "Standard Procedures" (§§ 113.25 to 113.41), a new § 113.42, codifying the test procedures for lymphocytic choriomeningitis (LCM), is added to Part 113 by these amendments.

The test procedures for LCM which presently appear in § 113.129 and § 113.147 are deleted from these sections, except by reference to the procedures prescribed in new § 113.42.

After due consideration of all relevant matters, including the proposals set forth in the aforesaid notices of rulemaking the comments and views submitted by interested persons, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (U.S.C. 151–158), the amendments of Part 113, Subchapter E, Chapter 1, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notices, are hereby adopted and are set forth herein subject to the following noted minor revisions and necessary editorial changes:

The proposed § 113.129(b)(1) has been modified by the addition of the term "as soon as possible" in the first sentence. This was done in response to questions regarding the time period in which a preinactivation virus titer is to be established. The test requirements in proposed § 113.129(b)(5) for the master seed virus have been deleted because they are unnecessary in view of the information which is obtained from routine serial testing. These requirements state that the master seed virus must be retested periodically (every 3 to 5 years) for immunogenicity. Since each serial of a vaccine is tested for immunogenicity before release, the repeat testing of the master seed virus is unnecessary. On account of the deletion of proposed § 113.129(b)(5), the proposed § 113.129(b)(6) has been renumbered as § 113.129(b)(5).

The proposed § 113.147(b) has been rewritten for clarification, for editorial correctness, and to correct printing errors. Paragraph (b)(5) has been made into paragraphs (b)(5) and (b)(6) and the proposed (b)(6) has been renumbered as (b)(7).

§§ 113.129 and 113.147 [Amended]

All words in the headings for § 113.129 and § 113.147 are to be capitalized.

1. Part 113 is amended by the addition of a new section to read:

§ 113.42 Detection of lymphocytic choriomeningitis contamination.

The test for detection of lymphocytic choriomeningitis (LCM) virus provided in this section shall be conducted when such a test is prescribed in an applicable Standard Requirement or in a filed Outline of Production. Vaccine virus may be neutralized with specific antiserum when necessary.

(a) Each of at least 10 mice obtained from a source free of LCM shall be injected in the footpad of a hindfoot with 0.02 ml of the material being tested and observed each day for 21 days.

(b) If any of the mice show swelling in the injected footpad or if more than one becomes systemically abnormal, the material being tested is unsatisfactory.

2. Section 113.129 is amended by revising paragraphs (a)(3), (b), (c), and the introductory portion of paragraph (d)(1); by deleting paragraphs (d)(1)(i), (ii), and (iii); and by revising paragraphs (d)(2)(ii) and (d)(3) to read:

§ 113.129 Rabies Vaccine, Killed Virus.

* * * * *

(a) * * *

(3) Each lot of Master Seed Virus propagated in primary cell cultures or mouse or hamster origin or brain tissues of mouse origin shall be tested for lympho-

cytic choriomeningitis (LCM) virus by the procedure prescribed in § 113.42. If LCM virus is detected, the Master Seed Virus is unsatisfactory.

(b) The immunogenicity of vaccine prepared with virus at the highest passage of the Master Seed Virus shall be established in all species for which the vaccine is recommended. The vaccine shall be prepared using methods prescribed in the Outline of Production.

(1) The preinactivation virus titer shall be established as soon as possible after harvest by at least five separate virus titrations. A mean relative potency value of the vaccine to be used in the host animal potency test shall be established by at least five replicate potency tests conducted in accordance with the NIH Test For Potency in Chapter 33 of "Laboratory Techniques in Rabies," Third Edition (1973), World Health Organization, Geneva. The volumetric method of calculation, as described in this publication, shall be used. The provisions of "Laboratory Techniques in Rabies," Third Edition (1973), incorporate by reference and are the minimum standards for achieving compliance with this section.[1] [2]

(2) The dose of vaccine to be used in the immunogenicity test shall be no more than the amount which, on the basis of The NIH Test For Potency, has been diluted to the proposed minimum acceptable potency value.[1] [2]

(3) Test animals shall be uniform and have no neutralizing antibodies to rabies as determined by serum-neutralization (SN) tests.

(i) Twenty-five to thirty animals shall be used as vaccinates. Each shall be injected intramuscularly at one site in the thigh with a dose of vaccine at the proposed minimum potency level as written into the filed Outline of Production.

(ii) Ten additional animals shall be held as controls.

(iii) On or about days 30, 60, 90, 180, 270, and 365 postinjection, all test animals shall be bled and individual serums tested for neutralizing antibodies to rabies virus.

(iv) All surviving test animals of each species shall be challenged with virulent rabies street virus 1 year after vaccinations, except as provided in paragraph (b)(4) of this section. Injection bilaterally into the masseter muscles is the recommended route of challenge. The challenged animals shall be observed each day for 90 days as prescribed in § 113.5(b).

(v) Requirements for acceptance in challenge tests shall be death due to rabies in at least 80 percent of the controls while at least 22/25 or 26/30 vaccinates remain well for a period of 90 days.

(4) When cattle, horses, sheep, and goats are the test animals, the five vaccinates with the lowest SN titers shall be challenged, except that all vaccinates with SN titers below 1:5 shall be challenged at 1 year. Five SN-negative controls of each species shall be challenged at the same time as the vaccinates. All SN titers shall be determined to an endpoint. The remaining vaccinates may be challenged at a later date and the results included in the criteria used to establish a satisfactory Master Seed Virus.

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

(c) If more than 1 year duration of immunity is to be claimed, a duration of immunity test for the additional time shall be conducted and interpreted as prescribed in paragraph (b) of this section for the 1 year test. The test animals shall be monitored serologically at least every 180 days. The time of challenge may be adjusted accordingly.

(d) * * *

(1) *Purity test.* Primary cell cultures of hamster origin or brain tissues of mouse origin used in vaccine production shall be tested for LCM virus as prescribed in § 113.42. Hamster origin cells shall be disrupted and undiluted cell fluids from each lot shall be tested. Where mouse brains are used in production, at least five mice which have not been injected with rabies virus shall be sacrificed and a 10 percent suspension of brain material shall be prepared and tested.

(2) * * *

(ii) A test for safety in three young seronegative animals of the most susceptible species for which the vaccine is recommended shall be conducted. Each shall be injected intramuscularly with one recommended dose of vaccine. If unfavorable reactions attributable to the product occur during a 28 day observation period, the serial is unsatisfactory.

(3) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency by tests conducted in accordance with The NIH Test For Potency.[1] [2] The volumetric method of calculation shall be used. The relative potency of each serial shall be at least equal to that used in an approved host animal immunogenicity test.

3. § 113.147 is amended by revising the introductory portion of paragraph (a)(3) and deleting paragraphs (a)(3)(i) and (ii); by revising paragraphs (b) and (c); by revising the introductory portion of paragraph (d)(1) and (d)(1)(ii) and by adding a new paragraph (d)(1)(iii) to read:

§ 113.147 Rabies Vaccine.

* * * * *

(a) * * *

(3) Each lot of Master Seed Virus propagated in primary cell cultures of mouse or hamster origin or brain tissues of mouse origin shall be tested for lymphocytic choriomeningitis (LCM) virus by the procedure prescribed in § 113.42. If LCM virus is detected, the Master Seed Virus is unsatisfactory.

* * * * *

(b) The immunogenicity of vaccine prepared with virus at the highest passage of the Master Seed Virus shall be established in all species for which the vaccine is recommended. The vaccine shall be prepared using methods prescribed in the Outline of Production.

(1) A geometric mean virus titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used.

(2) The dose of vaccine to be used in the immunogenicity test shall be no more than the amount of rehydrated vaccine which, on the basis of previous titrations, has been diluted to the proposed minimum acceptable virus titer.

(3) Test animals shall be uniform and have no neutralizing antibodies to rabies as determined by serum-neutralization (SN) tests.

(i) Twenty-five to thirty animals shall be used as vaccinates. Each shall be injected intramuscularly at one site in the thigh with a dose of vaccine at the proposed minimum virus titer as written into the filed Outline of Production.

(ii) Ten additional animals shall be held as controls.

(iii) On or about days 30, 60, 90, 180, 270, and 365 postinjection, all test animals shall be bled and individual serums tested for neutralizing antibodies to rabies virus.

(iv) All surviving test animals of each species shall be challenged with virulent rabies street virus 1 year after vaccination, except as provided in paragraphs (b)(4), (b)(5), and (b)(6) of this section. Injection bilaterally into the masseter muscles is the recommended route of challenge. The challenged animals shall be observed each day for 90 days as prescribed in § 113.5(b).

(v) Requirements for acceptance in challenge tests shall be death due to rabies in at least 80 percent of the controls while at least 22/25 or 26/30 vaccinates remain well for a period of 90 days.

(4) When cattle, horses, sheep, and goats are the test animals, the five vaccinates with the lowest SN titers shall be challenged, except that all vaccinates with SN titers below 1:5 shall be challenged. Five SN-negative controls of each species shall be challenged at the same time as the vaccinates. All SN titers shall be determined to an endpoint. The remaining vaccinates may be challenged at a later date and the results included in the criteria used to establish a satisfactory Master Seed Virus.

(5) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Only five vaccinates and five controls need to be used in the retest and the retest may be limited to serological re-

[1] A copy of "Laboratory Techniques in Rabies," Third Edition (1973), edited by Martin M. Kaplan and Hilary Koprowski is on file at the Office of the Federal Register, National Archieves and Records Service, Washington, DC 20408. The publication may be purchased from the World Health Organization, Distribution and Sales Service, 1211 Geneva 27, Switzerland for $14.40. It may also be obtained from the United Nations Bookshop, New York, NY 10017.

[2] NOTE.—Incorporate by reference of the above publication approved by the Director, Office of the Federal Register on August 2, 1976.

sponse at 1 year after vaccination of the vaccinates if such response is equal to or greater than that in the original immunogenicity test and all controls remain negative. If the SN response is not satisfactory, the vaccinates and controls may be challenged. To be satisfactory, at least 4 of the 5 controls shall die of rabies and 5 of the 5 vaccinates remain well for a period of 90 days.

(6) The repeat immunogenicity tests may be terminated after 90 day SN tests if at least 10 vaccinates and at least 5 controls of each species are used and the test dose of vaccine contains the minimum acceptable virus titer throughout dating.

(i) If the 10 vaccinates have SN titers equal to or greater than the 90 day SN titers of the vaccinates in the initial immunogenicity test, the Master Seed Virus is satisfactory.

(ii) If the 10 vaccinates do not have acceptable SN titers, each vaccinate and each control shall be challenged at 1 year with virulent rabies street virus and observed for 90 days.

(iii) If at least 80 percent of the controls do not show signs of rabies during the observation period, the test is invalid and shall be repeated.

(iv) If more than 10 percent of the vaccinates show signs of rabies, the Master Seed Virus is unsatisfactory.

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

(c) If more than 1 year duration of immunity is to be claimed, a duration of immunity test for the additional time shall be conducted and interpreted as prescribed in paragraph (b) of this section for the 1 year test. The test animals shall be monitored serologically at least every 180 days. The time of challenge may be adjusted accordingly.

(d) * * *

(1) *Purity and safety tests.*

Final container samples of completed product from each serial or one subserial shall be tested.

* * * * *

(ii) A test for safety in three young seronegative animals of the most susceptible species for which the vaccine is recommended shall be conducted. Each shall be injected intramuscularly with 10 recommended doses of vaccine. If unfavorable reactions attributable to the product occur during a 28 day observation period, the serial is unsatisfactory.

(iii) If primary cell cultures of hamster origin or of mouse origin are used in vaccine production, they shall be tested for LCM virus as prescribed in § 113.42. The cells shall be disrupted and undiluted cell fluids from each lot shall be tested.

* * * * *

(21 U.S.C. 151 and 154; 37 FR 28646, 2877; 38 FR 19141.)

Effective date. These amendments take effect March 7, 1977, except that label changes brought about by these amendments shall be made by all licensees at the next printing of labels to which these changes apply, but in all cases, not later than August 5, 1977.

Done at Washington, DC, this 31st 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.77-3517 Filed 2-3-77;8:45 am]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 310—SAFEGUARDING PERSONAL INFORMATION IN FEDERAL DEPOSIT INSURANCE CORPORATION RECORDS

Privacy Act of 1974

On December 22, 1976, a document was published in the FEDERAL REGISTER (41 FR 55717) proposing to amend Part 310 of the Federal Deposit Insurance Corporation's ("FDIC") regulations. This regulation, promulgated pursuant to the requirements of section 3(f) of the Privacy Act of 1974, 5 U.S.C. 552a(f), 88 Stat. 1896, 1900-01, provides procedures permitting individuals to gain access to certain FDIC records pertaining to themselves.

The proposed amendments minimize the identification verification procedures required of individuals for a majority of the requests under the Privacy Act of 1974 and provide an agency-level appellate process to individuals whose requests for access to individually identifiable records have been initially denied. Also, to more readily identify those systems of records which have been exempted from the disclosure provisions of the Privacy Act, the proposal adds a listing of the exempt systems to the regulation. Interested parties were given the opportunity to submit, not later than January 31, 1977, data, views and recommendations regarding the proposed amendments.

No unfavorable comments have been received, and, with the exception of one nonsubstantive typographical error, the proposed amendments are hereby adopted without change and are set forth below.

Effective date: March 1, 1977.

By order of the Board of Directors, February 1, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

1. Section 310.2 is amended by adding paragraph (i), to read as follows:

§ 310.2 Definitions.

* * * * *

(i) The term "system manager" means the agency official responsible for a designated system of records, as denominated in the FEDERAL REGISTER publication of "Systems of Records Maintained by the Federal Deposit Insurance Corporation."

* * * * *

§ 310.3 [Amended]

2. In § 310.3(b) the last sentence reading, "Except as provided in § 310.4, each such request should also include a notarized statement attesting to the identity of the individual making the request." is deleted.

3. Section 310.4 is amended by revising paragraph (c) to read as follows:

§ 310.4 Times, places, and requirements for identification of individuals making requests.

* * * * *

(c) Except for records that must be publicly disclosed pursuant to the Freedom of Information Act, 5 U.S.C. 552, where the Corporation determines it to be necessary for the individual's protection, a certification of a duly commissioned notary public, of any state or territory, attesting to the requesting individual's identity may be required before a written request seeking access to or amendment of a record will be honored.

4. Section 310.5 is amended by revising paragraph (b) to read as follows:

§ 310.5 Disclosure of requested information to individuals.

* * * * *

(b) The Executive Secretary will notify, in writing, the individual making a request, whenever practicable within ten business days following receipt of the request, whether any specified designated system of records maintained by the Corporation contains a record pertaining to the individual. Where such a record does exist, the Executive Secretary also will inform the individual of the system manager's decision whether to grant or deny the request for access. In the event existing records are determined not to be disclosable, the notification will inform the individual of the reasons for which disclosure will not be made and will provide a description of the individual's right to appeal the denial, as more fully set forth in § 310.9. Where access is to be granted, the notification will specify the procedures for verifying the individual's identity, as set forth in § 310.4.

* * * * *

§ 310.8 [Amended]

5. In § 310.8 the first sentence of paragraph (a) is amended by inserting the word "system" between the words "the" and "manager" and by deleting the phrase "(as designated in the Corporation's FEDERAL REGISTER 'Notice of Systems of Records')."

6. Section 310.9 is amended by retitling the heading and by revising paragraphs (a) and (c) as follows:

§ 310.9 Appeal of adverse initial agency determination on access or amendment.

(a) A system manager's denial of an individual's request for access to or

amendment of a record pertaining to him/her may be appealed in writing to the Board of Directors of the Corporation within 30 business days following receipt of notification of the denial. Such an appeal should be forwarded to the Office of the Executive Secretary, Records Unit, and contain all the information specified for requests for access in § 310.3 or for initial requests to amend in § 310.7, as well as any other additional information the individual deems relevant for the Board of Directors' consideration of the appeal.

* * * * *

(c) If the Corporation's Board of Directors affirms the initial denial of a request for access or to amend, it will inform the individual affected of the decision, the reason therefor and the right of judicial review of the decision. In addition, as pertains to a request for amendment, the individual may at that point submit to the Corporation a concise statement setting forth his or her reasons for disagreeing with the Corporation's refusal to amend.

7. Section 310.13 is revised to read as follows:

§ 310.13 Exemptions.

(a) Investigatory material compiled for law enforcement purposes in the following systems of records is exempt from §§ 310.3–310.9 and § 310.10(d)(2) of these rules; provided, however, that if any individual is denied any right, privilege or benefit to which he/she would otherwise be entitled under Federal law, or for which he/she would otherwise be eligible, as a result of the maintenance of such material, such material shall be disclosed to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence:

FDIC/2—Bank and proposed bank irregularity record system.

FDIC/11—Legal compliance and enforcement records.

(b) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Corporation employment to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Corporation under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, in the following system of records, is exempt from §§ 310.3–310.9 and § 310.10(d)(2) of these rules:

FDIC/1—Attorney-legal internal applicant system.

(c) Testing or examination material used solely to determine or assess individual qualifications for appointment or promotion in the Corporations' service, the disclosure of which would compromise the objectivity or fairness of the testing, evaluation, or examination process, in the following system of records, is exempt from §§ 310.3–310.9 and § 310.10(d)(2) of these rules:

FDIC/9—Examiner training and education records.

[FR Doc.77-3657 Filed 2-3-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-118, Amdt. 7]

PART 372—OVERSEAS MILITARY PERSONNEL CHARTERS

Elimination of Reporting Requirements Imposed on Overseas Military Personnel Charter Operators

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., January 31, 1977.

As part of our continuing plan to evaluate the usefulness of our reporting requirements, the Board has determined to eliminate those imposed on Overseas Military Personnel Charter Operators by Subpart E (§ 372.40) of Part 373 of the Board's Special Regulations. Under these reporting requirements, each charter operator must file information within 45 days of the end of each calendar year as to the number of flights performed each month, the air carrier used on each flight, and the number of passengers carried on each flight separately categorized as to military personnel, civilian employees of the Department of Defense, and members of immediate family. In adopting new charter reporting requirements on CAB Form 41, schedule T-6, and on CAB Form 217, the Board indicated[1] that existing charter reporting requirements would be reviewed with a view toward elimination of duplicative reporting. As part of this review, the Board has determined that it no longer has a regulatory need for the reports being eliminated by this amendment. The Board believes that its present charter reporting requirements, together with the record retention requirements of § 372.28, will adequately provide for the availability of data necessary for maintaining the surveillance of Overseas Military Personnel Charter Operators. Section 372.28 requires charter operators to retain for two years after completion of a charter or series of charters all documents which evidence or reflect deposits made by, and refunds made to, each charter participant; and all statements, invoices, bills, and receipts from suppliers or furnishers of goods and services in connection with the charter or series of charters.

Since this amendment eliminates present reporting requirements, the Board finds that notice and public proceedings hereon are not required. Moreover, so that maximum benefit can be realized from the decision to eliminate this report, the Board finds good cause exists for making this rule effective on less than 30 days notice. Accordingly, this rule is effective immediately, and the reports which would normally be filed with the Board within 45 days after the end of the calendar year 1976 will not be required.

Accordingly, the Civil Aeronautics Board hereby amends Part 372 of the Board's Special Regulations (14 CFR Part 372) effective January 31, 1977, by deleting Subpart E in its entirety, both from the table of contents and the text.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-3651 Filed 2-3-77;8:45 am]

[1] ER-949, effective May 1, 1976, page 4.

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2859]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Salomon/North America, Inc.

Subpart—Boycotting seller-suppliers: § 13.302 Boycotting seller-suppliers. Subpart—Coercing and intimidating: § 13.358 Distributors. Subpart—Combining or conspiring: § 13.385 To boycott seller-suppliers; § 13.388 To control allocations and solicitation of customers; § 13.395 To control marketing practices and conditions; § 13.405 To discriminate unfairly or restrictively in general; § 13.425 To enforce or bring about resale price maintenance; § 13.430 To enhance, maintain or unify prices; § 13.450 To limit distribution or dealings to regular, established or acceptable channels or classes; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Controlling, unfairly, seller-suppliers: § 13.530 Controlling, unfairly, seller-suppliers. Subpart—Corrective actions and/or requirements; § 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records. Subpart—Cutting off supplies or service; § 13.610 Cutting off supplies or service; § 13.655 Threatening disciplinary action or otherwise. Subpart—Maintaining resale prices: § 13.1130 Contracts and agreements; § 13.1140 Cutting off supplies; § 13.1145 Discrimination; 13.1145-5 Against price cutters; § 13.1150 Penalties; § 13.1155 Price schedules and announcements; § 13.1160 Refusal to sell; § 13.1165 Systems of espionage; 13.1165-80 Requiring information of price cutting.

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

In the Matter of Salomon/North America, Inc., a corporation.

Consent order requiring a Peabody, Mass., manufacturer and distributor of ski bindings and related ski equipment,

among other things to cease establishing and maintaining resale prices; soliciting the identities of dealers failing to observe respondent's sales policy; threatening the termination of those dealerships; and restricting product sales only to authorized dealers. Additionally, the order requires respondent to indicate on each page of disseminated material containing retail prices, that these prices are suggested or approximate; and to maintain a five-year file containing correspondence and explanations of refusals to deal.

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

ORDER

I. *It is ordered*, That Salomon/North America, Inc., a corporation (hereafter Salomon), its subsidiaries, successors and assigns, and its officers and directors and Salomon's agents, representatives and employees, individually or in concert, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, distribution, offering for sale or sale of ski bindings, ski equipment and related items or any other product (hereinafter the "Products") in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

A. Making or enforcing any oral or written contract, agreement or arrangement pursuant to which such dealer, distributor or retailer agrees not to sell the Products at prices less than minimum retail prices established by Salomon.

B. Making or enforcing any oral or written contract agreement or arrangement which restricts the class or type of customer to whom such dealer, distributor or retailer may sell the Products.

C. Making or enforcing any oral or written contract, agreement or arrangement which restricts the site or location at which such dealer, distributor or retailer may sell the Products.

D. Making or enforcing any oral or written contract, agreement or arrangement which prohibits such dealer, distributor or retailer from advertising, promoting or offering for sale any of the Products at less than minimum prices specified by Salomon.

E. Requesting or requiring any dealer or prospective dealer, either directly or indirectly, to report any dealer, person or firm who does not adhere to any suggested retail price for any of said Products, or acting on reports so obtained by refusing or threatening to refuse sales of the Products to any dealer, person or firm so reported.

F. Publishing, disseminating or circulating any price list, price book, price tag, advertising or promotional material, or other document ("Promotional Material") indicating any resale or retail prices for the Products without stating on each page of such Promotional Material which includes a list or statement of the suggested retail prices of any or all of the Products that the price is a suggested or an approximate retail price.

II. Nothing contained in this Order shall be construed as limiting or restricting the rights of Salomon (a) to require that each dealer or retailer who sells the Products at retail shall be fully qualified to perform Proper Fitting Services (as that term is hereafter defined); and (b) to require that each dealer or retailer who sells the Products at retail actually shall provide Proper Fitting Services to retail customers who purchase the Products; and (c) to require that distributors, dealers and retailers refrain from reselling the Products to dealers or retailers who are not fully qualified and willing to provide Proper Fitting Services to retail customers; *Provided*, That Salomon shall make available to all present and prospective dealers an opportunity for instruction in performing Proper Fitting Services, except where Salomon has lawful business reasons (other than the inability to perform Proper Fitting Services) for not selling the Products to any particular dealer. As used in this paragraph II, the term "Proper Fitting Services" means the mounting and installing of the Products upon the skis of a retail or rental customer, and the fitting and adjustment of the Products to the boots of such customer, in a workmanlike and proper manner, having due regard for the physical qualifications and skiing abilities of such customer, in order to minimize the risk of injury to such customer and other persons and property and to minimize the potential liabilities of Salomon and its distributors, dealers and retailers.

III. *It is further ordered*, That Salomon shall, within fifty-nine (59) days after service upon it of this Order, mail a copy of this Order to each of its dealers in the Commonwealth of Puerto Rico, the District of Columbia and in those states which as of February 28, 1975, did not permit fair trade contracts, under cover of the letter annexed hereto as Exhibit A, and furnish the Commission proof of the mailing thereof.

IV. *It is further ordered*, That Salomon notify the Commission at least thirty (30) days prior to any proposed change in Salomon such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation of or dissolution of subsidiaries or any other such change in the corporation which may affect compliance obligations arising out of the Order.

V. *It is further ordered*, That Salomon shall forthwith distribute a copy of this Order to each of its operating divisions and to all of its sales personnel and shall instruct each sales person employed by it now or in the future to read this Order and to be familiar with its provisions and to comply with it. The failure of such sales person to comply with this Order shall be grounds for immediate dismissal.

VI. *It is further ordered*, That Salomon herein for a period of five (5) years from the date of this signing establish and maintain a file of all records referring or relating to Salomon's refusal to sell the Products to any dealer, which file shall contain a copy of any written communication to any such dealer explaining Salomon's refusal to sell, and which file will be made available for Commission inspection on reasonable notice.

VII. *It is further ordered*, That Salomon shall, within sixty (60) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

The Decision and Order was issued by the Commission January 6, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-3491 Filed 2-3-77;8:45 am]

[1] Copies of the Complaint, Decision and Order, and Exhibit filed with the original document.

[Docket 8864]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Beatrice Foods Co.

Codification under 16 CFR 13 appears at 40 FR 33657.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18.)

In the Matter of Beatrice Foods, Co., a corporation.

Order modifying an earlier order dated July 1, 1975, 40 FR 33657, 86 F.T.C. 1, by deleting the words "or sale" from Paragraph IV of the original order, as required by the August 18, 1976, decision and judgment of the Court of Appeals for the Seventh Circuit, 540 F. 2d 303 (1976).

The Modified Order to Cease and Desist is as follows:

ORDER

I. *It is ordered*, That, subject to the prior approval of the Federal Trade Commission, respondent Beatrice, through its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors and assigns, shall as soon as possible and in any event within one (1) year from the date this Order becomes final, divest absolutely and in good faith all assets, rights, property and privileges, tangible and intangible, including all plants, equipment, machinery, raw material reserves, inventory, customer lists, trade names, trademarks, good will and other property of whatever description acquired by Beatrice as a result of its acquisition of Essex Graham Company (hereinafter referred to as Essex), including all additions and improvements thereto, which are necessary to restore Essex as a separate independent and viable going concern in the lines of commerce in which it was engaged prior to said acquisition.

II. *It is further ordered*, That, pursuant to the requirement of Paragraph I above, none of the stock, assets, rights or privileges, tangible or intangible, acquired or added by Beatrice shall be divested directly or indirectly to anyone who is, at the time of the divestiture, an officer, di-

rector, employee, or agent of, or under the control, direction or influence of Beatrice or any of Beatrice's subsidiaries or affiliated corporations or who owns or controls more than one (1) percent of the outstanding shares of the capital stock of Beatrice.

III. It is further ordered, That, pending divestiture, respondent Beatrice shall not make or permit any deterioration in the value of any of the plants, machinery, parts, equipment, or other property or assets of the corporations to be divested which may impair their present capacity or market value unless such capacity or value be restored prior to divestiture.

IV. It is further ordered, That respondent Beatrice shall cease and desist for ten (10) years from the date this Order becomes final from acquiring directly or indirectly, through subsidiaries or otherwise, without prior approval of the Federal Trade Commission, any part of the assets, stock, share capital, or other actual or potential equity interest or right of participation in the earnings of any domestic concern, corporate or non-corporate, which is engaged in the manufacture of manually powered paint applicators or engaged in the manufacture or sale of raw materials to companies engaging in the manufacture of manually powered paint applicators, or from entering into any arrangements or understandings with such a concern through which respondent Beatrice becomes possessed of that concern's market share.

For the purpose of this Order, manually powered paint applicators are defined as: paint and varnish brushes; paint rollers, including pans, covers, handles, and other accessories sold separately, or as part of a paint roller kit; and miscellaneous paint applicators other than spray equipment and aerosol cans.

V. *It is further ordered*, That respondent Beatrice shall within sixty (60) days after date of service of this Order, and every sixty (60) days thereafter until respondent Beatrice has fully complied with the provisions of this Order, submit in writing to the Federal Trade Commission a verified report setting forth in detail the manner and form in which respondent Beatrice intends to comply or has complied with this Order. All compliance reports shall include, among other things that are from time to time required, a summary of contracts or negotiations with anyone for the specified stock, assets and plant, the identity of all such persons, and copies of all written communications to and from such persons.

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

The Modified Order to Cease and Desist was issued by the Commission December 28, 1976.

JOHN F. DUGAN,
Acting Secretary.

[Docket No. 8864]

MODIFIED ORDER TO CEASE AND DESIST

In the Matter of BEATRICE FOODS CO., a corporation.

Respondent, having filed in the United States Court of Appeals for the Seventh Circuit on August 20, 1975, a petition to review an order to cease and desist issued herein on July 1, 1975; and the Court having rendered its decision and judgment on August 18, 1976, affirming and enforcing the Commission's order with a modification of Paragraph IV; and the time in which to file a petition for certiorari having expired without either party having filed such a petition;

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

ORDER

I.

It is ordered, That, subject to the prior approval of the Federal Trade Commission, respondent Beatrice, through its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors and assigns, shall as soon as possible and in any event within one (1) year from the date this Order becomes final, divest absolutely and in good faith all assets, rights, property and privileges, tangible and intangible, including all plants, equipment, machinery, raw material reserves, inventory, customer lists, trade names, trademarks, good will and other property of whatever description acquired by Beatrice as a result of its acquisition of Essex Graham Company (hereinafter referred to as Essex), including all additions and improvements thereto, which are necessary to restore Essex as a separate independent and viable going concern in the lines of commerce in which it was engaged prior to said acquisition.

II.

It is further ordered, That, pursuant to the requirement of Paragraph I above, none of the stock, assets, rights or privileges, tangible or intangible, acquired or added by Beatrice shall be divested directly or indirectly to anyone who is, at the time of the divestiture, an officer, director, employee, or agent of, or under the control, direction or influence of Beatrice or any of Beatrice's subsidiaries or affiliated corporations or who owns or controls more than one (1) percent of the outstanding shares of the capital stock of Beatrice.

III.

It is further ordered, That, pending divestiture, respondent Beatrice shall not make or permit any deterioration in the value of any of the plants, machinery, parts, equipment, or other property or assets of the corporations to be divested which may impair their present capacity or market value unless such capacity or value be restored prior to divestiture.

IV.

It is further ordered, That respondent Beatrice shall cease and desist for ten (10) years from the date this Order becomes final from acquiring directly or indirectly, through subsidiaries or otherwise, without prior approval of the Federal Trade Commission, any part of the assets, stock, share capital, or other actual or potential equity interest or right of participation in the earnings of any domestic concern, corporate or non-corporate, which is engaged in the manufacture of manually powered paint applicators or engaged in the manufacture or sale of raw materials to companies engaging in the manufacture of manually powered paint applicators, or from entering into any arrangements or understandings with such a concern through which respondent Beatrice becomes possessed of that concern's market share.

For the purpose of this Order, manually powered paint applicators are defined as: paint and varnish brushes; paint rollers, including pans, covers, handles, and other accessories sold separately, or as part of a paint roller kit; and miscellaneous paint applicators other than spray equipment and aerosol cans.

V.

It is further ordered, That respondent Beatrice shall within sixty (60) days after date of service of this Order, and every sixty (60) days thereafter until respondent Beatrice has fully complied with the provisions of this Order, submit in writing to the Federal Trade Commission a verified report setting forth in detail the manner and form in which respondent Beatrice intends to comply or has complied with this Order. All compliance reports shall include, among other things that are from time to time required, a summary of contracts or negotiations with anyone for the specified stock, assets and plant, the identity of all such persons, and copies of all written communications to and from such persons.

VI.

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

Issued: December 28, 1976.

By the Commission.

JOHN D. MACOLL,
Acting Secretary.

[FR Doc.77-3501 Filed 2-3-77; 8:45 am]

[Docket 8990]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Spiegel, Inc.

Codification under 16 CFR 13 appears at 40 FR 44317.

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

In the Matter of Spiegel, Inc., a corporation.

Order modifying an earlier order dated Aug. 18, 1975, 40 FR 44317, 86 F.T.C. 425, by limiting the reporting requirements of Paragraphs II and V, as mandated by the Court of Appeals for the Seventh Circuit in its August 9, 1976, decision and judgment, 540 F. 2d 303 (1976), to only those suits instituted in a county other than that where the defendant resided at the commencement of the action, or where he signed the contract sued on.

The Modified Order to Cease and Desist is as follows:

ORDER

I.

For purposes of this Order, the term "respondent" means "Spiegel, Inc., a

corporation, and its successors, assigns, officers, agents, representatives and employees, acting directly or through any corporation, subsidiary, division, or other device, including any collection agency."

II.

It is ordered, That respondent, in connection with the collection of retail credit accounts in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from instituting suits except in the county where the defendant resides at the commencement of the action, or in the county where the defendant signed the contract sued upon. This provision shall not be construed to prohibit the institution of suit by respondent against Illinois residents in an Illinois county courthouse which is a reasonable distance from their place of residence. This provision shall not preempt any rule of law which further limits choice of forum or which requires, in actions involving real property or fixtures attached to real property, that suit be instituted in a particular county.

III.

It is further ordered, That, where respondent learns subsequent to institution of a suit that the preceding Paragraph (II) has not been complied with, it shall forthwith terminate the suit and vacate any default judgment entered thereunder. In lieu of such termination, respondent may effect a change of forum to a county permitted by the preceding paragraph, *Provided*, That respondent gives defendant notice of such action and opportunity to defend equivalent to that which defendant would receive if a new suit were being instituted. In all cases respondent shall provide defendants with a clear explanation of the action taken and of the defendant's right to appear, answer and defend in the new forum.

IV.

It is further ordered, That where respondent terminates a suit or vacates a judgment pursuant to the preceding Paragraph (III) it shall give notice of such termination or vacation to each "consumer reporting agency," as such term is defined in the Fair Credit Reporting Act (51 U.S.C. Section 603), which it has been informed or has reason to know has recorded the suit or judgment in its files. Additionally, respondent shall furnish such notice to any other person or organization upon request of the defendant.

V.

It is further ordered, That respondent prepare and maintain a summary of suits involving the collection of retail credit accounts by respondent which were instituted in a county other than where the defendant resides, or where the defendant signed the contract sued upon. This summary shall contain each defendant's name, address, and county of residence; county where the contract was signed by the defendant; county where served; date served; date filed; docket number; name and location of court in which filed; name of plaintiff (if a collection agency suing in its own name); amount claimed; disposition (including garnishment or execution, if any); and explanation of the reason for choice of forum. This summary shall cover all such suits instituted, pending, terminated, or acted upon subsequent to judgment during the two years immediately following the effective date of this order. A copy of this summary shall be submitted to the Federal Trade Commission on a quarterly basis.

VI.

It is further ordered, That Spiegel, Inc., shall forthwith deliver a copy of this order to each of its subsidiaries and operating divisions, to each collection agency currently collecting any of Spiegel's retail credit accounts, and to any other collection agency prior to referral to it of any of Spiegel's retail credit accounts. Spiegel, Inc., shall obtain and preserve signed and dated statements from each collection agency, acknowledging receipt of the order and willingness to comply with it.

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

It is further ordered, That respondent shall, within sixty days and at the end of six months after the effective date of the order served upon it, file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form of its compliance with the order to cease and desist.

The Modified Order to Cease and Desist was issued by the Commission December 27, 1976.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-3502 Filed 2-3-77;8:45 am]

[Docket C-2858]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

California and Hawaiian Sugar Company, et al.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; 13.10-5 Knowingly by advertising agent; § 13.20 Comparative data or merits; 13.20-20 Competitors' products; § 13.160 Promotional sales plans; § 13.175 Quality of product or service; § 13.205 Scientific or other relevant facts. Subpart—Disparaging competitors and their products—Competitors' products: § 13.1015 Quality; § 13.1030 Source of origin. Subpart—Misrepresenting oneself and goods—Goods: § 13.1575 Comparative data or merits; § 13.1585 Competitive inferiority; § 13.1715 Quality; § 13.1740 Scientific or other relevant facts.—Promotional sales plans: § 13.1830 Promotional sales plans. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2063 Scientific or other relevant facts.

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

In the Matter of California and Hawaiian Sugar Company, a corporation, and Foote, Cone & Belding/Honig, Inc., a corporation.

Consent order requiring a San Francisco, Calif., seller of granulated sugar, and its advertising agency, Foote, Cone and Belding/Honig, Inc., among other things to cease misrepresenting or making unsubstantiated claims regarding the superiority of their products over that of competing brands.

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

ORDER

It is ordered, That respondents California and Hawaiian Sugar Company, a corporation, and Foote, Cone & Belding/Honig, Inc., a corporation, their successors and assigns, and their officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of granulated sugar packaged for retail consumption, forthwith cease and desist from:

1. Disseminating or causing the dissemination of any advertisement by means of the United States mails or in or having an effect upon commerce by any means, as "commerce" is defined in the Federal Trade Commission Act, which represents, directly or by implication:

(A) (i) That there are differences in granulated sugars, or that C&H granulated sugar derived from Hawaiian sugar cane is superior to or different from sugar derived from sugar beets or sugar cane from places other than Hawaii, unless (a) such represented difference or superiority relates to a consumer use of such sugar which is specified in the advertisement, (b) the difference or superiority is substantiated by competent and reliable evidence prior to making the representation, and (c) such substantiation includes competent and reliable evidence that the difference or superiority is discernible to or of benefit to the class of consumers to whom the representation is directed.

(ii) *Provided, however*, That it shall not be a violation of this Order to use the phrase "pure cane sugar from Hawaii" as a means of identifying the geographic origin and type of granulated sugar marketed under the C&H brand name in any context wherein the quality of the sugar marketed under the C&H brand is not expressly or implicitly com-

[1] Copies of the Complaint and decision and Order filed with the original document.

pared with the quality of any other sugar. Where an advertisement contains the phrase "pure cane sugar from Hawaii" and a depiction of C&H sugar, without any representation referring to any competitor's sugar product, or any representation that C&H sugar possesses a depicted characteristic or quality to a degree different from competitive brands of sugar, the advertisement will not be deemed to contain an implied comparison.

(iii) *It is further provided*, That if an advertisement makes a positive or absolute and truthful representation concerning C&H sugar without any representation concerning any competitor's sugar product, or without any representation that C&H sugar possesses a depicted characteristic or quality to a degree different from competitors' brands of sugar, the advertisement will not be deemed to contain an implied comparison under this order.

(B) That the label, advertising or packaging of any brand of granulated sugar other than C&H does not disclose the source or origin of its sugar, unless the advertisement specifies a consumer use of sugar with respect to which C&H sugar is different from such other sugar and such difference is substantiated by competent and reliable evidence prior to making the representation.

2. Disseminating, or causing the dissemination of, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such product, in or having an effect upon commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations prohibited in Paragraph 1 above.

Provided, however, That it shall not be considered a violation of this order for Foote, Cone & Belding/Honig, Inc. to make what would otherwise be a false or misleading claim or representation concerning the qualities of C&H sugars or competitive sugars if that respondent shows that it neither had any knowledge of the falsity of or misleading character of such representation nor had any reason to know, nor upon reasonable inquiry could have known its false, deceptive or misleading nature.

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

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

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

The Decision and Order was issued by the Commission January 6, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-3493 Filed 2-3-77;8:45 am]

Title 21—Foods and Drugs

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

SUBCHAPTER A—GENERAL

[Docket No. 75N-0375]

INFORMAL HEARING BEFORE REPORT OF CRIMINAL VIOLATION

The Food and Drug Administration (FDA) is issuing final regulations that set forth procedures for an informal hearing before report of criminal violation, effective March 7, 1977.

The Commissioner of Food and Drugs issued a proposal in the FEDERAL REGISTER of April 7, 1976 (41 FR 14769) to adopt rules on the internal practices and procedures of the agency governing informal hearings conducted pursuant to section 305 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335). The provisions of § 1.6 *Presentation of views under section 305 of the act* (21 CFR 1.6), which were brief and general, are expanded under new § 2.705 (21 CFR 2.705). The regulations being adopted deal with the conduct of an informal hearing under § 2.706 (21 CFR 2.706) and the disclosure of records relating to such hearings under § 2.707 (21 CFR 2.707).

The Commissioner further proposed to add to Part 2 (21 CFR Part 2), new Subpart N, Enforcement Policy, Practices, and Procedures, to accomplish the purpose set forth in § 2.700 *Scope and purpose* (21 CFR 2.700). The proposal included new § 2.703 *Definitions* (21 CFR 2.703), containing definitions applicable to Subpart N generally and to section 305 hearings specifically. As regulations governing other facets of agency regulatory enforcement practices and procedures are promulgated, necessary additional definitions will be included in § 2.703.

Eight letters were received in response to the proposal. The comments in the letters and the Commissioner's conclusions about them are as follows:

1. One comment took exception to a reference in the preamble to the statutory authority of the agency over product recalls.

A complete discussion of recall authority and procedures was published in the FEDERAL REGISTER of June 30, 1976 (41 FR 26924), and the reader is referred to that document. The Commissioner also notes that the Radiation Control for Health and Safety Act (Pub. L. 90-602) and the Medical Device Amendments of 1976 (Pub. L. 94-295, enacted May 28, 1976) contain specific recall authority. In any event, since the comments dealt with the statement in the preamble, no change in the regulation with respect to section 305 hearings is necessary.

2. One comment argued that individual respondents at section 305 hearings should be given "Miranda" warnings, particularly advice that a respondent has a right to remain silent and that anything he says may be used against him.

As the Commissioner noted in the preamble to the proposal, "Miranda" type warnings are inapplicable to situations, like section 305 hearings, where there is no custodial interrogation. The fact that custodial interrogation is the essential touchstone of the rule in "Miranda" has been reaffirmed by the Supreme Court recently in "Beckwith v. United States," 96 S. CT. 1612 (1976), notwithstanding the fact that the inquiry challenged there had focused upon a person who appeared to have violated the law. This decision is consistent with earlier rulings of the Supreme Court reaffirming the limited applicability of "Miranda" to "custodial" interrogations. "Mathis v. United States," 391 U.S. 1 (1968) and "Orozco v. United States," 394 U.S. 324 (1969). Moreover, the Notice of Hearing, accompanying Information Sheet, and the regulations themselves make clear that appearance is voluntary because a person need not appear or answer in any manner to a Notice of Hearing, that a person who chooses to appear may do so with legal counsel, that the hearing concerns potential criminal prosecution, and that information presented by a respondent at a hearing may be introduced at a subsequent trial. (See §§ 2.705(e) and 2.706 (b)(4) below.) The voluntariness of statements made at section 305 hearings and the inapplicability of the "Miranda" type warnings have been specifically recognized in cases arising under the Federal Food, Drug, and Cosmetic Act. "United States v. Andreadis," 234 F. Supp. 341 (E.D. N.Y., 1964) and "United States v. Newton," No. 4-66 Cr. 45 (D. Minn., 1966).

3. One comment sought assurance that persons who receive a supplemental Notice of Hearing will be entitled to the same procedures and safeguards as afforded those who receive an original Notice of Hearing.

The Commissioner advises that anyone receiving a Notice of Hearing, whether it be original or supplemental, will be subject to the same procedures. The regulation does not provide different procedures or "safeguards" for original and supplemental notices.

4. Four comments were received concerning whether section 305 hearings should always be provided to those persons being considered for prosecution. One comment suggested that the hearings are unnecessary and should not be provided under any circumstances. Two comments suggested that all persons being considered for prosecution should be granted a hearing without exception and objected to that portion of § 2.705(a) dispensing with an opportunity for a hearing "in compelling circumstances." The fourth comment argued that the proposed rules may create a right which will be binding but which was never intended by Congress and does not exist in the statute.

As noted in the preamble of the proposal, the United States Supreme Court has authoritatively determined that a hearing by FDA is not a prerequisite to prosecution under the act. Nevertheless, the agency has decided that it will normally provide an opportunity for an administrative hearing before issuing a prosecution recommendation to a United States attorney. There may be circumstances, however, in which a section 305 procedure would be unwarranted, such as where a person had already had an opportunity to explain his or her role with respect to a violation in the context of a prior injunction proceeding. There are other situations that may justify making an exception to the general rule. Accordingly, FDA will give notice and opportunity for an informal hearing "except in compelling circumstances." The decision to establish a general rule providing for a notice and opportunity for a hearing does not preclude imposition of reasonable terms, limits, or conditions upon such procedures.

Because the regulation is intended to apply only to FDA, it has no effect upon the independent decisions and procedures of the Department of Justice in instituting criminal proceedings under the Federal Food, Drug, and Cosmetic Act. As Congressman Lea, Chairman of the House Interstate and Foreign Commerce Subcommittee, made clear in the legislative debates:

> Mr. LEA. I call attention, however, to the fact that the mere circumstance that the [Commissioner] does not report the offense does not excuse the accused from prosecution. The Attorney General may proceed in case he desires to do so. * * * The law speaks for itself, and there are no strings on the Department of Justice or on the grand jury. They can proceed whenever they like. 83 Cong. Rec. 10249.

Sections 2.705(a), 2.706(h) and 2.706(i) are being modified and new paragraph (j) is being added to § 2.706 to specify FDA as the government agency to which these informal hearing regulations apply and to delineate the distinction between the duties of the agency and absence of restraints upon the Department of Justice.

5. A comment suggested that reference to the "Department of Justice" should replace the phrase "United States attorney" in the regulations.

The Commissioner disagrees. The statute refers to reporting proposed prosecutions to "any United States attorney." Although a copy of the FDA written recommendations for prosecution is also routinely sent to the appropriate section of the Department of Justice, this is not reason to alter the statutory designation of the United States attorney, to whom the agency's recommendation is made.

6. A comment noted that the definition of "person" in proposed § 2.703(d) is not identical to that which appears in section 201(e) of the act (21 U.S.C. 321 (e)) in that the regulaion added the phrase "or other legal entity."

The Commissioner concludes that the definition of "person" shall be removed from the regulation because it already appears in the act.

7. One comment suggested that the definition of "responsible individual" should be deleted from proposed § 2.705 (b) because it will appear elsewhere in the regulations.

The Commissioner has decided that the term should be part of the definitions section; it is designated as § 2.703 (d) in the final regulation.

8. Two comments requested that the regulation be revised in § 2.705(c)(1) to require that the Charge Sheet include details of the conduct forming the basis of an alleged violation, rather than a summary of the violations.

The Commissioner agrees that respondents must be sufficiently informed to prepare a response. Current procedure provides for itemization of the specific products and shipments forming the basis of the contemplated action in the Notice of Hearing. Section 2.705(c) is revised in the final order to refer to the substance of a Notice of Hearing. It has been the experience of FDA that respondents have no difficulty understanding the charges or preparing relevant responses. Only occasionally have hearing officers been requested to give additional clarification. The format and the content of the hearing documents will continue to provide adequate information and therefore are not being changed at this time.

9. One comment objected to the nonspecificity of the requirement in proposed § 2.705(g) that requests for separate hearings be made "seasonably" and recommended that the term be clarified.

The Commissioner agrees with this comment. The final regulation provides that requests for a separate hearing must be received at the designated hearing office at least 3 working days before the scheduled hearing date. Because proposed § 2.705(d) was subject to the same criticism, the Commissioner is combining proposed § 2.705 (d) and (g) in the final regulation to provide in new § 2.705 (d) specific time limits governing all requests for changes in the date, time, or place of hearing.

10. Two comments stated that the regulation was unclear in proposed § 2.706 (b) as to who might appear at the hearings to represent a person named in the Notice of Hearing. One comment further noted that a designated representative might appear pursuant to § 2.705(f) as proposed but fail to present written authorization, in which case, presumably, the hearing could not proceed.

The Commissioner concludes that because a section 305 hearing is not open to the public, all persons attending, other than FDA officials, must appear at the request of and on behalf of the respondent; § 2.706(b)(2) is modified to clarify this limitation. If someone appears at a hearing claiming to be the designated representative of a person named in a Notice of Hearing, but without written authorization, the hearing officer shall attempt to verify the claim by telephone or other means before beginning the hearing. Such verification is acceptable in those circumstances and § 2.705(f) is amended in the final regulation to provide for this procedure. If however, proper verification cannot be obtained for a respondent, the hearing with respect to that respondent will not be held at that time.

11. A related comment suggested that the regulations provide for additional FDA personnel to be present at section 305 hearings to assist the hearing officer or for training or other purposes.

The Commissioner concurs in this suggestion and § 2.706(a) is amended to provide for the presence of additional FDA personnel.

12. One comment suggested that the investigator who observed the alleged violations be present at section 305 hearings to assure that the person charged has the opportunity to bring out all pertinent facts.

Section 305 hearings were not intended to be adversary proceedings, but rather were designed to provide an opportunity for a respondent to present his views. For this reason, § 2.706(b)(3) as proposed provided that the "Food and Drug Administration is under no obligation to present evidence or witnesses." Moreover, hearing officers are sufficiently aware of the facts of each case so that they may clarify any charges that may be questioned. Therefore, this suggestion is rejected.

13. One comment recommended that §§ 2.706 (c) and (d) be modified to provide that a summary of the hearing be dictated whether or not a verbatim transcript is prepared.

While recognizing that hearing transcripts may be delayed, the Commissioner does not believe that two separate documents are necessary or desirable. It is anticipated that hearing officers will retain their notes until transcripts are received and they may prepare internal memoranda to promptly advise their supervisors. Any time taken awaiting a hearing transcript will not adversely affect a respondent's ability to submit written supplemental comments pursuant to § 2.706(g) of the regulations.

14. Two comments suggested that respondents (1) be permitted to remain during the dictation of the summary in order to comment or suggest corrections or (2) have 10 calendar days to review the transcript or summary of a hearing to provide written comments.

The Commissioner concurs. Sections 2.706 (d) and (g) of the final regulation are revised to provide both an opportunity to await dictation of the summary and make comment at that time, as well as 10 calendar days for written supplementation upon receipt of the summary or transcript.

15. One comment suggested that the standard for reopening hearings be modified to permit a hearing to be reopened when a respondent demonstrates only that new information has come to light that could affect the FDA decision to prosecute but not also, as proposed, that such information was not previously

readily available. The comment also suggested that a respondent be allowed to supplement his presentation with written or documentary material at any time prior to a recommendation for prosecution.

In response to this suggestion, § 2.706 (g) has been revised to provide assurance that supplemental materials, submitted by a respondent within 10 calendar days after the date of a written response to a Notice of Hearing or 10 calendar days after the date that respondent receives the transcript or the summary of hearing, shall be considered before the final agency decision. The final order states that any supplemental materials received after the 10-day response period will be considered and added to the record of hearing only if the final decison has not already been made.

The Commissioner believes that a demanding standard should be maintained for the reopening of hearings since there are procedures to submit supplemental materials in documentary form. For this reason, § 2.706(e) has been modified to require that requests for a reopened hearing specify the nature of the new information, the reason why it was not previously available to the respondent, and the reason it should not be submitted in documentary form. The final regulation provides that a hearing will be reopened only if the information to be submitted was not reasonably available to the respondent at the time of the initial hearing.

16. Three comments recommended that §§ 2.706(h) and (i) be amended to provide that decisions to prosecute persons afforded a 305 hearing be made within a specified time and that all persons charged should be notified of the decision.

The Commissioner rejects the suggestion that FDA be bound to a prescribed review time. Responses to section 305 notices may be brief or extensive, including laboratory analyses. On occasion, legal memoranda and other documentary evidence is submitted. Of course, a person named in a notice need not appear at all. In view of these variables, and the benefit to a respondent of the full consideration of the case at the various levels of review beyond the FDA district office, it would be not only artificial but detrimental to impose a time limitation. The timeliness of prosecution for violations of the act will be measured by statute of limitations.

With respect to notification of the agency's decision not to prosecute, the Commissioner has concluded that each named individual will be notified immediately when consideration of criminal prosecution is closed with respect to all such persons, as set forth under § 2.706 (h). Where prosecution of some named persons is recommended to a United States attorney, notification of those not recommended for prosecution will be made only if such notification will not prejudice the prosecution of the potential defendants, as set forth under § 2.706 (i). The Commissioner concludes that the risk of prejudice to a subsequently named defendant outweighs the delay in advising those who are no longer being considered by the agency for criminal prosecution.

17. One comment objected to that portion of § 2.707(c) that permits the name of a person considered for prosecution, but not prosecuted, to be disclosed under the Freedom of Information Act (5 U.S.C. 552) if the Commissioner concludes there is compelling public interest to do so. The comment asserted that in no situation would the public interest be served and that, if the names are to be released, it should only be with the consent of the named individual.

The Commissioner can envision situations in which the fact that a person was considered by the agency for prosecution but not found to be responsible is preferable to the implication that inculpatory evidence exists in agency files. Since the regulation provides that release is measured by a compelling public interest, written consent of the individuals involved should not be required. Section 2.707(c) is consistent with its predecessor, § 1.6(c)(4) (21 CFR 1.6(c)(4)), and with the agency's regulation on disclosure of public information in § 4.64(d)(4) (21 CFR 4.64(d)(4)). Accordingly, the comment is rejected.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 305, 701(a), 52 Stat. 1045, 1055 (21 U.S.C. 335, 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)); *It is ordered*, That Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

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

§ 1.6 [Revoked]

1. In Part 1, by revoking § 1.6 *Presentation of views under section 305 of the act.*

PART 2—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

2. In Part 2 by adding new Subpart N, consisting of the following sections:

Subpart N—Enforcement Policy, Practices, and Procedures

Sec.
2.700 Scope and purpose.
2.703 Definitions.
2.705 Informal hearing before report of criminal violation.
2.706 Conduct of informal hearing before report of criminal violation.
2.707 Records related to hearings conducted before report of criminal violation.

AUTHORITY: Secs. 305, 701(a), 52 Stat. 1045, 1055 (21 U.S.C. 335, 371(a)).

Subpart N—Enforcement Policy, Practices, and Procedures

§ 2.700 Scope and purpose.

Subpart N of Part 2 governs the practices and procedures applicable to regulatory enforcement actions initiated by the Food and Drug Administration pursuant to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and other laws that it administers. This subpart is promulgated to clarify and explain the regulatory enforcement practices and procedures of the Food and Drug Administration, enhance public understanding, improve consumer protection, and assure uniform and consistent application of practices and procedures throughout the agency.

§ 2.703 Definitions.

(a) "Agency" means the Food and Drug Administration.

(b) "Notice of Hearing" means the document (Form FD-466), also referred to as a "citation" or "cite," that provides notice to a person against whom criminal prosecution is contemplated of the opportunity to present his views to the agency regarding an alleged violation.

(c) "Other laws administered by the Food and Drug Administration" includes, but is not limited to, the Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.), the Federal Caustic Poison Act (15 U.S.C. 401–411), the Radiation Control for Health and Safety Act (42 U.S.C. 263b–263n), and provisions of the Public Health Service Act relating to biologics (section 351 (42 U.S.C. 262)), and interstate quarantine, including milk and food service and shellfish sanitation, (section 361 (42 U.S.C. 264)).

(d) "Responsible individual" includes those in positions of power or authority to detect, prevent, or correct violations of the Federal Food, Drug, and Cosmetic Act.

(e) "Respondent" means a person named in a Notice of Hearing, who either in person, by designated representative, or in writing presents his views concerning an alleged violation.

§ 2.705 Informal hearing before report of criminal violation.

(a) A person against whom criminal prosecution under the Federal Food, Drug, and Cosmetic Act is being contemplated by the Food and Drug Administration shall, except in compelling circumstances, be given appropriate notice and an opportunity for an informal hearing before the agency to present information and views to show cause why institution of criminal prosecution should not be recommended to a United States attorney.

(b) An opportunity for such a hearing shall be afforded all persons who, in the judgment of the Food and Drug Administration, appear to have had a responsible share in the furtherance of a transaction that violates the law.

(c) Opportunity for hearing shall be provided by a Notice of Hearing (Form FD-466) sent to each person who appears to share responsibility for a violation. A Notice of Hearing shall identify the products and/or shipments alleged to be in violation, and shall be sent by registered or certified mail, telegram, telex, personal delivery, or any other

appropriate mode of written communication. The Notice of Hearing shall specify the time and place of the hearing and shall be accompanied by:

(1) A Charge Sheet (Form FD-1854) summarizing the apparent violations of the act and of other laws administered by the agency that constitute the basis of the contemplated prosecution.

(2) An Information Sheet (Form FD-466a) describing the purpose and procedure of the hearing.

(3) A Legal Status Sheet (Form FD-454) which the respondent is requested to fill out and return with the response to the Notice of Hearing.

(d) If more than one person is named in a Notice of Hearing, a separate hearing for any named person shall be scheduled on request. Otherwise, the time and place specified for a hearing may be changed only upon a showing of reasonable grounds. Requests for any change shall be addressed to the office in the Food and Drug Administration that issued the Notice of Hearing and shall be received in that office at least 3 working days before the date set in the Notice of Hearing.

(e) A person who has received a Notice of Hearing is under no legal obligation to appear or answer in any manner. If a person chooses to respond, he may appear personally, with or without a representative, or he may designate a representative to appear for him. Alternatively, a person may respond in writing. If a person elects not to respond on or before the time scheduled for the hearing, the Food and Drug Administration will, without further notice, decide whether to recommend criminal prosecution to a United States attorney on the basis of the evidence available.

(f) When a respondent chooses to appear solely by designated representative, such representative shall present to the hearing officer a signed statement of authorization. When a representative appears for more than one respondent, he shall submit independent documentation of his authority to act for each. If a representative appears without written authorization, the hearing with respect to that respondent may proceed only if the hearing officer first verifies by telephone, or other appropriate means, the authenticity of the representative.

§ 2.706 Conduct of informal hearing before report of criminal violation.

(a) The hearing shall be conducted by a Food and Drug Administration employee who has been designated as a hearing officer. Other Food and Drug Administration employees may be present, and the purpose of their attendance will be stated for the record.

(b) The hearing shall be conducted in the following fashion:

(1) The hearing shall commence at the time and place designated in the Notice of Hearing, or as otherwise agreed to by the participants.

(2) The hearing shall not be open to the public. The hearing officer will permit participation of other persons only if they appear with the respondent or his designated representative and at the request of and on behalf of the respondent, provided they identify themselves and their relationship to the respondent and state on the record that they are appearing for the respondent.

(3) The hearing shall be informal and shall be conducted in a manner that facilitates the presentation of information and views by the respondent. Rules of evidence shall not apply. At the outset, the hearing officer shall briefly review the basis on which criminal prosecution is contemplated. The Food and Drug Administration is under no obligation to present evidence or witnesses.

(4) A respondent may present any information bearing on why he should not be prosecuted. Such information may consist of statements of persons appearing on his behalf, letters, documents, laboratory analyses, if applicable, or any other data or arguments relevant to the allegations set forth in the Charge Sheet. Such information, including statements by the respondent, may be introduced at at any subsequent trial.

(5) If the respondent holds a "guaranty or undertaking" (as described in section 303 of the act (21 U.S.C. 333(c))) that is applicable to any article on which the Notice of Hearing is based, such guaranty or undertaking, or verified copy thereof, may be presented by the respondent. Such document will be made a part of the record of the hearing.

(c) The respondent shall have the right to have the hearing transcribed at his expense, in which case a copy of such transcription shall be furnished to the Food and Drug Administration. Alternatively, the hearing officer may, at his discretion, order the hearing transcribed at the expense of the Food and Drug Administration, in which case a copy of such transcription shall be provided to each respondent.

(d) If the hearing is not transcribed, the hearing officer shall dictate a written summary of the hearing at its conclusion. The respondent shall be offered the opportunity to remain during the dictation to offer additional comments or corrections. A copy of the completed written summary shall be provided to each respondent whether or not he remains during dictation. Respondents may submit comments on the summary in accordance with paragraph (g) of this section.

(e) If a respondent obtains new information that was not reasonably available to him at the time of the hearing, a timely written request to reopen the hearing may be submitted to the office in the Food and Drug Administration where the hearing was held. Such a request shall specify the nature of the new information sought to be presented, the reason why it was not previously available to the respondent, and the reason it should not be submitted in documentary form. If the Commissioner concludes that presentation of the information may have a bearing on the decision to prosecute, he shall designate an employee of the Food and Drug Administration to conduct the reopened hearing. Any reopened hearing shall be governed by the procedures set forth in this subpart, and the written request and the summary or transcript of the reopened session shall become part of the record of the hearing.

(f) The record of the hearing shall consist of the following:

(1) The Notice of Hearing.

(2) The Charge Sheet.

(3) The Legal Status Sheet, if completed and returned by the respondent.

(4) All documentary information submitted by the respondent.

(5) The transcript or summary of the hearing and of any reopened session of such hearing.

(g) A respondent may supplement any response made on his behalf with additional written or documentary evidence and/or provide written comment on the summary of hearing or the transcript. To ensure that any submission will receive consideration before the agency decides whether or not to recommend prosecution, such submission shall be furnished to the office in the Food and Drug Administration where the hearing was held no later than 10 calendar days after either the date of a written response to a Notice of Hearing or the date the respondent receives the transcript or the summary of hearing. Any materials received after the 10-day supplemental response period has expired will be considered and added to the record of hearing if the final decision has not yet been made. Any such supplemental material shall be made a part of the record of the hearing.

(h) When consideration of criminal prosecution involving the same violations is closed by the agency with respect to all persons named in the Notice(s) of Hearing and no further criminal action is contemplated for the offenses charged, the agency will so notify each person in writing.

(i) When it is finally determined that a person named in a Notice of Hearing will not be included in the agency recommendation for prosecution, the agency will notify that person, if and when it concludes that notification will not prejudice the prosecution of any other person.

(j) When a United States attorney informs the agency that he will prosecute some but not all persons who had been provided an opportunity for a hearing and were subsequently named in an agency recommendation for prosecution, the Food and Drug Administration will notify those persons eliminated from further consideration after being advised by the United States attorney that such notification will not prejudice the prosecution of any other person. When a United States attorney informs the agency that no persons recommended by the agency will be prosecuted, the agency will so notify each person in writing.

§ 2.707 Records related to hearings conducted before report of criminal violation.

(a) Records relating to a section 305 hearing constitute investigatory records for law enforcement purposes and may include inter- and intra-agency memoranda.

(1) Notwithstanding the rule established in § 4.21 of this chapter, no record relating to a section 305 hearing is available for public disclosure until consideration of criminal prosecution has been closed in accordance with paragraph (b) of this section, except as provided in § 4.82 of this chapter. Only very rarely and only under circumstances that demonstrate a compelling public interest will the Commissioner exercise his discretion to disclose records (pursuant to § 4.82 of this chapter) relating to a section 305 hearing before the consideration of criminal prosecution is closed.

(2) After consideration of criminal prosecution is closed such records are available for public disclosure in response to a request under the Freedom of Information Act, except to the extent that the exemptions from disclosure in Subpart D of Part 4 of this chapter are applicable. No statements of persons obtained through promises of confidentiality shall be available for public disclosure.

(b) Consideration of criminal prosecution based upon a particular section 305 hearing shall be deemed to be closed within the meaning of this section and § 2.706 when a final decision has been made not to recommend criminal prosecution to a United States attorney based upon charges set forth in the Notice of Hearing and considered at that hearing, or such recommendation has been finally refused by the United States attorney, or criminal prosecution has been instituted and the matter and all related appeals have been concluded, or the statute of limitations has run.

(c) Before disclosure of any record specifically reflecting consideration of possible criminal prosecution of any individual, all names and other information that would identify an individual whose prosecution was considered but who was not recommended for prosecution or, if recommended for prosecution was not prosecuted, shall be deleted, unless the Commissioner concludes that there is a compelling public interest in the disclosure of such names.

(d) Names and other information that would identify a Food and Drug Administration employee shall be deleted from section 305 hearing records before public disclosure only pursuant to § 4.32 of this chapter.

PART 4—PUBLIC INFORMATION

§ 4.21 [Amended]

3. Section 4.21 *Uniform access to records* is amended in paragraph (b) by changing the reference to "§ 1.6(c)(1)" to read "§ 2.707(a)(1)."

§ 4.64 [Amended]

4. Section 4.64 *Investigatory records compiled for law enforcement purposes* is amended in paragraph (c)(2) by changing the reference to "§ 1.6(c)" to read "§ 2.707."

§ 4.100 [Amended]

5. Section 4.100 *Applicability; cross-reference to other regulations* is amended in paragraph (c)(1) by changing the reference to "§ 1.6(c)" to read "§ 2.707."

Effective date. This regulation shall become effective March 7, 1977.

(Secs. 305, 701(a), 52 Stat. 1045, 1055 (21 U.S.C. 355, 371(a)).)

Dated: January 28, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-3339 Filed 2-3-77;8:45 am]

[Docket No. 77N-0008]

PART 8—COLOR ADDITIVES

Listing of FD&C Yellow No. 5 for Cosmetic Use Subject to Certification; Stay of Effectiveness

The Food and Drug Administration (FDA) is announcing a stay of the effectiveness of the order listing FD&C Yellow No. 5 for use in externally applied cosmetics.

In the FEDERAL REGISTER of January 21, 1974 (39 FR 2358), the Commissioner of Food and Drugs issued an order listing FD&C Yellow No. 5 for use in externally applied cosmetics other than hair straighteners, permanent wave preparations, and depilatories by adding new § 8.7255 (21 CFR 8.7255). The continued use of these three types of products has been permitted under the provisional listing of FD&C Yellow No. 5.

Timely objections to the order were received from a manufacturer of colors, a manufacturer of cosmetics, and a trade association. Two of the letters objected to the order's exclusion of the use of FD&C Yellow No. 5 in ingested cosmetics. Both letters claimed that such use should be included in the order and cited findings from teratological and multireproduction studies as supporting evidence for their safe use. It was also cited that the color was already listed for use in food and ingested drugs. Two of the letters objected to the exclusion of the use of the color in hair straighteners, permanent wave preparations, and depilatories. One letter objected to the omission of a final listing of lakes made from FD&C Yellow No. 5. One letter objected to the omission of the use of FD&C Yellow No. 5 in externally applied drugs. The filing of these objections automatically served to stay the effectiveness of the order because they involved its primary aspects.

A proposal was published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41860) to postpone the closing dates for the provisional listing of certain color additives beyond December 31, 1976. One of the requirements that the proposal would impose is the submission of new data from chronic studies with certain color additives, including FD&C Yellow No. 5. The Commissioner, in evaluating the listing of FD&C Yellow No. 5 for external cosmetic use, concludes that such action is inappropriate pending receipt of the new data from chronic studies with FD&C Yellow No. 5.

Accordingly, the Commissioner is announcing in accordance with section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)(2)), that the effectiveness has been stayed for the order listing FD&C Yellow No. 5 for use in externally applied cosmetics.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 706(b), (c), and (d), 70 Stat. 919, 74 Stat. 399–403 (21 U.S.C. 371(e), 376(b), (c), and (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)), notice is given that the effective date of March 22, 1974 for the order amending Part 8 by adding new Subpart G consisting of § 8.7255 is stayed by the filing of timely and valid objections.

Until further notice, FD&C Yellow No. 5 will continue to be provisionally listed for use in cosmetics, generally, and in externally applied drugs.

Dated: January 28, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-3337 Filed 2-3-77;8:45 am]

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Exempt Chemical Preparations

The Administrator of the Drug Enforcement Administration has received applications pursuant to § 1308.23 of Title 21 of the Code of Federal Regulations requesting that several chemical preparations containing controlled substances be granted the exemptions provided for in § 1308.24 of Title 21 of the Code of Federal Regulations.

The Administrator hereby finds that each of the following chemical preparations and mixtures is intended for laboratory, industrial, education, or special research purposes, is not intended for general administration to a human being or other animal, and either (a) contains no narcotic controlled substances and is packaged in such a form or concentration that the package quantity does not present any significant potential for abuse, (b) contains either a narcotic or non-narcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion or concentration, that the preparation or mixture does not present any potential for abuse, or (c) the formulation of such preparation or mixture incorporates methods of denaturing or other means so that the controlled substance cannot

in practice be removed, and therefore the preparation or mixture does not present any significant potential for abuse. The Administrator further finds that exemption of the following chemical preparations and mixtures is consistent with the public health and safety as well as the needs of researchers, chemical analysts, and suppliers of these products.

Therefore, pursuant to section 202(d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812(d)), and under the authority vested in the Attorney General by sections 301 and 501(b) of the Act (21 U.S.C. 821 and 871(b)) and delegated to the Administrator of the Drug Enforcement Administration by, and in accordance with, Regulations of the Department of Justice (Title 28 of the Code of Federal Regulations, Part 0), the Administrator of the Drug Enforcement Administration hereby orders that Part 1308 of Title 21 of the Code of Federal Regulations be amended as follows:

a. By amending § 1308.24(i) by adding the following chemical preparations:

§ 1308.24 Exempt chemical preparations.

* * * * *

(i) * * *

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Templi® Division, Big Three Industries, Inc.	TEMPILAR® STRIPED MYLAR	Plastic sheet: 6 by 12 in. 50 sheets per envelope.	Sept. 22, 1976
Materials & Technology Systems, Inc.	Methadone standard	Screwcap vial: 10 ml	Sept. 17, 1976
Do	Barbiturate standard	do	Do.
Do	Benzoyl ecgonine (cocaine) standard	do	Do.
J. T. Baker Chemical Co., Diagnostics Division.	TOXI-PAK® Immuno HI™ morphine-sensitized red blood cells, product No. 10701.	Bottle: 20 ml	Sept. 20, 1976
Do	TOXI-PAK® Immuno HI™ morphine standard, product No. 10703.	Bottle: 8 ml	Do.
Do	TOXI-PAK™ Immuno HI™ morphine kit, product No. 10700.	Kit: 200 determinations	Do.
Do	TOXI-PAK™ Immuno HI™ methadone standard product No. 10708.	Bottle: 8 ml	Do.
Do	TOXI-PAK™ Immuno HI™ methadone kit, product No. 10705.	Kit: 200 determinations	Do.
Bio-Reagents & Diagnostics, Inc.	Ortho toxicology control serum, product No. 9070.	Bottle: 10 ml	Sept. 15, 1976
Do	Ortho toxicology control urine proficiency, product No. 9075.	Bottle: 25 ml	Do.
Do	Ortho anticonvulsant control serum, product No. 9085.	Bottle: 10 ml	Do.
Becton, Dickinson & Co. Schwarz/Mann Division.	Human thyroid stimulating hormone radioimmunoassay kit (^{125}I), catalog No. 224219.	Kit: 100 determinations	Oct. 8, 1976
Do	Thyroid stimulating hormone (^{125}I), catalog No. 224316.	Glass vial: 10 cc	Do.
Do	Thyroid stimulating hormone antiserum, catalog No. 224413.	do	Do.
Do	Precipitating antiserum, catalog No. 224511	do	Do.
Do	Barbital buffer, catalog No. 224618	do	Do.
Do	Human thyroid stimulating hormone:		
	Standard A, catalog No. 225812	do	Do.
Do	Standard B, catalog No. 225928	do	Do.
Do	Standard C, catalog No. 225011	do	Do.
Do	Standard D, catalog No. 225118	do	Do.
Do	Standard E, catalog No. 225215	do	Do.
Flow Laboratories	Human "O" DGV (dextrose gelatin veronal buffer).	Glass vial: 100 ml	Oct. 14, 1976
Microbiological Associates, division of Whittaker Corp.	Veronal buffer (5×concentrated for LBCF text), product No. 17-744.	Glass bottle: 500 ml, 100 ml.	Oct. 18, 1976
Do	Veronal buffer (5×concentrated), product No. 12-624.	Glass bottle: 100 ml	Do.
Do	Dextrose-gelatin-veronal (DGV) solution, product No. 10-539.	Glass bottle: 500 ml, 100 ml.	Do.
Amersham/Searle	T-4 TIA(PEG) kit catalog code IM.92	Kit: 50 determinations	Nov. 10, 1976
Do	T-4 RIA(PEG) kit catalog code IM.921	Kit: 100 determinations	Do.
Do	Thyroxine (^{125}I)	Vial: 100 mg	Do.
Do	Antiserum	Vial: 100 mg	Do.
Union Carbide Corp. (clinical diagnostics).	Centria test-T_4 kit	Kit: 36 determinations	Nov. 15, 1976
Do	Thyroxine antiserum	Amber vial: 10 ml	Do.
Do	Thyroxine radiolabel	Amber vial: 5 ml	Do.
Do	T_4 eluant	Amber vial: 100 ml	Do.
Do	Nonspecific binding	Amber vial: 5 ml	Do.
Do	Separation columns	Securitainers: 10 plastic columns, ¾ in diameter and 4 in long each.	Do.
Micromedic Systems	T_4 RIA ^{125}I tracer solution	Vial: 30 ml	Dec. 14, 1976
Do	T_4 RIA buffer solution	High density polyethylene bottle: 8 oz.	Do.
Do	T_3 RIA buffer solution	do	Do.
Do	T_3 RIA ^{125}I tracer solution	Vial: 30 ml	Do.
Do	T_3 uptake buffer solution	High density polyethylene bottle: 8 oz.	Do.
Do	T_3 uptake ^{125}I tracer solution	Vial: 30 ml	Do.

Effective date. This order is effective February 4, 1977. Any person interested may file written comments on or objections to the order on or before March 25, 1977. If any such comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which the order is based, the Administrator shall immediately suspend the effectiveness of the order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Administrator shall reinstate, revoke or amend his original order as he determines appropriate.

Dated: January 26, 1977.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.77-3387 Filed 2-3-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7459]

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

Various Elections

Correction

In FR Doc. 77-703, appearing at page 1469 in the issue for Friday, January 7, 1977, in § 7.0(d), the sixth line which appears at the bottom of the second column on page 1470 should read "graphs (c)(1)(i), (c)(4) and (c)(5) * * *"

Title 29—Labor

CHAPTER IV—OFFICE OF LABOR-MANAGEMENT STANDARDS ENFORCEMENT, DEPARTMENT OF LABOR

SUBCHAPTER A—LABOR-MANAGEMENT REPORTS

PART 402—LABOR ORGANIZATION INFORMATION REPORTS

Subsequent Reports

On November 19, 1976, notice of a proposed amendment to 29 CFR 402.4 was published in the FEDERAL REGISTER (41 FR 51040). 29 CFR 402.4 concerns the filing of Form LM-1A, "Report of Current Status: Labor Organization Information Supplement," by labor organizations to update the information previously filed by the labor organizations on Form LM-1, "Labor Organization Information Report," or on a previously filed Form LM-1A and to update the constitution and bylaws or other documents filed with those reports. Form LM-1A and the documents prescribed by the instructions to the forms are currently required to be filed for each annual reporting period in which there have been changes in the labor organization's constitution and bylaws or in the practices or procedures for which separate statements were filed by the labor organization in response to question 18 on Form LM-1 or question 10 on Form LM-1A.

If a subordinate labor organization adopts or has adopted as its constitution and bylaws a uniform constitution and bylaws prescribed by its parent national or international labor organization, it is not required to file such a uniform constitution and bylaws with its initial information report on Form LM-1 or with any subsequent filing of Form LM-1A if the parent national or international labor organization files as many copies of the constitution and bylaws with the Director of the Office of Labor-Management Standards Enforcement (LMSE) as the Director may request. Since the primary purpose of Form LM-1A is to insure that up-to-date copies of a labor organization's constitution and bylaws and other governing rules are filed with LMSE, it has been determined that it is unnecessarily burdensome to require the filing of Form LM-1A by subordinate labor organizations for a reporting period in which the only changes in their governing rules were changes in

a uniform constitution and bylaws which are filed with LMSE by the parent body.

Therefore, the amendment would provide that a subordinate labor organization is not required to file Form LM–1A because of changes in a uniform constitution and bylaws prescribed by its parent body if the following conditions are met:

(1) The parent body files as many copies of the constitution and bylaws with the Director of the Office of Labor-Management Standards Enforcement as the Director may request;

(2) There have been no changes in any practices described by the subordinate labor organization in the latest statements it submitted in response to question 18 on Form LM–1 or question 10 on Form LM–1A; and

(3) There have been no changes in any additional constitution, bylaws or other governing rules of the subordinate labor organization.

If the above conditions are met and the subordinate labor organization does not wish to file a Form LM–1A, the subordinate labor organization should check item 18 on Form LM–3 or item 20 on Form LM–2 "yes" with an asterisk and give an explanation for not filing Form LM–1A in the additional information space on the form.

Every current labor organization was required to file Form LM–1A with its first annual financial report filed after December 31, 1975. This exception for subordinate labor organizations from filing Form LM–1A under certain circumstances does not relieve any labor organization which has failed to file a Form LM–1A with its first annual financial report filed after December 31, 1975, from the requirement of filing a Form LM–1A for that period.

Interested persons were invited to submit written data, views, or proposals regarding the proposed amendment on or before December 17, 1976. No comments were received.

Therefore, under the authority of section 208 of the LMRDA (29 U.S.C. 438), and Secretary's Order No. 11–72 (May 12, 1972), notice is hereby given that 29 CFR Part 402 is amended as follows:

The present paragraph of § 402.4 is redesignated paragraph (a) and a new paragraph (b) is added to read as follows:

§ 402.4 Subsequent reports.

* * * * *

(b) A labor organization which has adopted or had adopted as its constitution and bylaws a uniform constitution and bylaws prescribed by its parent national or international labor organization in accordance with § 402.3(b) is not required to file Form LM–1A when changes are made in that constitution and bylaws if the following conditions are met:

(1) The parent national or international labor organization files as many copies of the amended uniform constitution and bylaws with the Director of the Office of Labor-Management Standards Enforcement as the director may request;

(2) There have been no changes in practices described by the subordinate labor organization in the latest statements submitted in response to question 18 on Form LM–1 or question 10 on Form LM–1A; and

(3) There have been no changes in any additional constitution, bylaws, or other governing rules adopted by the subordinate labor organization.

If the above conditions are met, the labor organization should check item 18 on Form LM–3 or item 20 on Form LM–2 "yes" with an asterisk and add a statement similar to the following in the additional information space on the form:

"This labor organization is not filing Form LM–1A because the only changes in our governing rules were in a uniform constitution prescribed by our parent body which is filing the required number of copies, and there have been no changes in practices described in the latest statements submitted with Form LM–1 or Form LM–1A."

Effective date: It has been determined that the required filing of Form LM–1A by a subordinate labor organization when there are changes in a uniform constitution and bylaws prescribed by a parent labor organization is unnecessarily burdensome and serves no useful purpose when the parent labor organization files copies of the revised constitution and bylaws with LMSE and certain other conditions are met. Therefore, to avoid requiring subordinate labor organizations to file Form LM–1A under conditions when the filing is now found to be unnecessary, and to thus reduce the reporting burden on such labor organizations, good cause is found to waive the 30-day delayed effective date otherwise required. Accordingly, this amendment shall be effective on February 4, 1977.

Signed at Washington, D.C., this 31st day of January 1977.

BERNARD E. DELURY,
Assistant Secretary of Labor for Labor-Management Relations.

[FR Doc.77-3656 Filed 2-3-77;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 6—UNITED STATES GOVERNMENT LIFE INSURANCE

PART 8—NATIONAL SERVICE LIFE INSURANCE

Payment to Decedent's Estate

On page 54004 of the FEDERAL REGISTER of December 10, 1976, there was published a notice of proposed regulatory development to amend Parts 6 and 8 of Title 38, Code of Federal Regulations, relating to payment of Government Life Insurance benefits including dividends and premium refunds directly to the person or persons entitled to the decedent's personal property under the laws of the State of his or her domicile, where no legal representative has been or will be appointed.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date: These VA Regulations are effective January 31, 1977.

Approved: January 31, 1977.

R. L. ROUDEBUSH,
Administrator.

1. Section 6.128 is revised to read as follows:

§ 6.128 Payment to decedent's estate.

If no legal representative has been or will be appointed, United States Government Life Insurance benefits, including dividends and premium refunds which are payable to the estate of a deceased insured or beneficiary, may be paid direct to the person or persons (distributee or distributees) entitled to the decedent's personal property under the laws of the State of his or her domicile, if the amount payable does not exceed $5,000: *Provided, however,* That if under the law of decedent's domicile the claimant is unconditionally and directly entitled to an amount from decedent's estate independently of entitlement as a distributee, at least equal to the amount payable by the Veterans Administration, payment, notwithstanding it exceeds $5,000, may be made directly to the claimant.

2. Section 8.54 is revised to read as follows:

§ 8.54 Payment to decedent's estate.

If no legal representative has been or will be appointed, National Service Life Insurance benefits, including dividends and premium refunds which are payable to the estate of a deceased insured or beneficiary, may be paid direct to the person or persons (distributee or distributes) entitled to the decedent's personal property under the laws of the State of his or her domicile if the amount payable does not exceed $5,000: *Provided, however,* That if under the law of decedent's domicile the claimant is unconditionally and directly entitled to an amount from decedent's estate independently of entitlement as a distributee, at least equal to the amount payable by the Veterans Administration, payment, notwithstanding it exceeds $5,000, may be made directly to claimant.

3. In § 8.59, paragraphs (a) and (d) are revised to read as follows:

§ 8.59 Assignments.

(a) The proceeds of a National Service Life Insurance policy shall not be assignable except that the person designated as beneficiary may assign all or any part of his or her interest in the insurance to the insured's widow, widower, child, father, mother, grandfather,

grandmother, brother, or sister: *Provided*, the designated contingent beneficiary, if any, joins the beneficiary in the assignment and such assignment is delivered to the Veterans Administration before any payments of the insurance have been made to the beneficiary.

* * * * *

(d) The proceeds of a National Service Life Insurance policy shall not be assignable, except that any beneficiary to whom such insurance, maturing on or after July 27, 1962, is payable may assign all or any part of his or her interest in the insurance to the insured's widow, widower, child, father, mother, grandfather, grandmother, brother or sister, when the designated contingent beneficiary, if any, joins the beneficiary in the assignment. Such joinder shall not be required in any case in which the insurance proceeds are payable to the assignor under option 1. No such assignment of a National Service Life Insurance policy shall be binding upon the United States unless in writing and until filed in the Veterans Administration. The United States assumes no responsibility for the validity of any assignment. Insurance granted under the provisions of section 722(b) of title 38, United States Code, cannot be assigned.

* * * * *

[FR Doc.77-3605 Filed 2-3-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER A—GENERAL

[FRL 674-3]

PART 3—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Interim Final Regulation

AGENCY: Environmental Protection Agency.

ACTION: Interim Final Rule with opportunity to comment.

SUMMARY: This rule prescribes the procedures to be followed by EPA employees in filing public financial disclosure statements under the Toxic Substances Control Act (TOSCA) and the Resource Conservation and Recovery Act of 1976 (RCRA). Section 26 of TOSCA (15 U.S.C. 2625) requires that each officer or employee of EPA who "performs any function or duty under this Act," and "has any known financial interest (i) in any person subject to this Act or any rule or order in effect under this Act, or (ii) in any person who applies for or receives any grant or contract under this Act" file a written statement of such interests. Section 1007 of RCRA (42 U.S.C. 6906) requires that each officer or employee of EPA who "performs any function or duty under this Act" and "has any known financial interest in any person who applies for or receives financial assistance under this Act" file a written statement of such interests. Under this rule each EPA employee who is not specifically exempted must file a statement of known financial interests on February 1 of each year beginning in 1977 under RCRA and in 1978 under TOSCA. These statements will be available to the public for examination and copying in the EPA Office of Public Affairs. Due to the internal nature of this rule and the short period of time available before the February 1, 1977, filing under RCRA, this is published as an interim final rule and is effective immediately. However, EPA invites comments concerning this rule. Comments must be received on or before April 1, 1977.

EFFECTIVE DATE: February 4, 1977.

ADDRESS: Comments to:

Office of General Counsel, Grants, Contracts and General Administration Division (A-134), U.S. Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT

James Nelson, Office of General Counsel, Grants, Contracts and General Administration Division (A-134), U.S. Environmental Protection Agency, Washington, D.C. 20460. Telephone: (202) 426-9448.

SUPPLEMENTARY INFORMATION: These new provisions for public financial disclosure have been added to EPA's rules on employee conduct and responsibilities. Since these new provisions are designed to highlight potential conflicts of interest, they have been integrated into the already existing mechanisms for monitoring and review of conflicts of interest in Subparts B, C, and F.

TOSCA allows the Administrator to exempt positions that are nonregulatory or nonpolicymaking in nature from the requirement to file the statement of known financial interests. TOSCA is very new, and EPA is currently designing the procedures, structures, and rules that will be necessary to administer the Act. The first financial disclosure filing under TOSCA is not due until February 1, 1978. Since the administration of TOSCA is not yet fully functioning, it is too early to attempt to define those positions that will not perform any functions or duties under the Act and that will not be of a regulatory or policymaking nature under the Act. Therefore, while the procedures for filings under TOSCA are published with this rule, Appendix E, which will specify those positions exempted from the requirement to file, will not be published in full until late this year when the positions and their duties are more clearly defined.

RCRA allows the Administrator to exempt positions that are nonpolicymaking in nature from the requirement to file the statement of known financial interests. The first filing under RCRA is due February 1, 1977. Appendix F, published with this rule, lists those positions that are exempted from the requirement to file because they have no functions or duties under the Act or, in the case of those that do have functions or duties under the Act, because they are nonpolicymaking in nature. RCRA is a new law that substantially amended a law already in existence and administered by EPA. EPA is still in the process of refining its administration of the new law. For this reason it has been difficult to define those positions that have no functions or duties under the Act and, of the others, those that are nonpolicymaking in nature. Appendix F represents the best effort to define positions exempt from the requirement to file. It represents a review of all the organizational units within EPA, first to list all those that have no functions or duties under the Act, and second to list those positions in the remaining offices that are nonpolicymaking in nature. Often this has been done by exempting all positions except those that have been found to have functions or duties under RCRA and to be policymaking in nature. This is necessary to avoid listing each position in each office that is exempt because such a list would greatly exceed a list of those who are not exempt.

In making the evaluation concerning which positions are nonpolicymaking in nature, the following definition of policymaking was used: A policymaking position is one in which the person occupying the position has been delegated, either formally or de facto, the discretion to make a choice among two or more policies in a manner in which the alternatives rejected by that person are not effectively considered and reviewed at a higher level. For purposes of this definition a "policy" is a principle, plan, rule, or procedure that governs the administration of RCRA. Thus, a person who decides what criteria will be used in deciding whether to award a contract is a policymaker, but a person who takes those criteria and applies them to a specific applicant for a contract to evaluate whether or not they are met in the specific case is not a policymaker.

At this time the number of policymakers under RCRA is limited because the major policies are still being established. However, in the future the number of true policymakers may be increased as more people are given discretion to make choices among two or more policies.

The review mechanisms in this rule for both RCRA and TOSCA require an examination of all positions at EPA each year to decide whether they should or should not be exempt. This mechanism will assure that, as duties and functions change, changes will be made in the exemption categories.

As of the date of this publication all the positions listed in Appendix F as exempt from the requirement to file either have no functions or duties under RCRA or, in the case of those that do have functions or duties, are nonpolicymaking in nature. The format in Appendix F is intended to make it easier for employees to discover whether or not they are exempt. This is done by listing all exemptions, of whatever nature, by organizational units.

Accordingly, 40 CFR Chapter I, Part 3, is amended as follows:

1. The Table of Sections, Subpart C, is amended by inserting the following:

Subpart C—Financial Interests and Investments

* * * * *

Sec.

3.305 Statements of known financial interests under the Toxic Substances Control Act

3.306 Statements of known financial interests under the Resource Conservation and Recovery Act of 1976

* * * * *

Appendix D—Procedures for filing statements of known financial interests.

Appendix E—Positions whose incumbents are exempt from filing statements of known financial interests under the Toxic Substances Control Act

Appendix F—Positions whose incumbents are exempt from filing statements of known financial interests under the Resource Conservation and Recovery Act of 1976

2. The statement of authority is amended to read as follows:

AUTHORITY: Executive Order 11222, 30 FR 6460, 3 CFR, 1964–1965 Comp., p. 306; 5 CFR 735.101 et seq.; unless otherwise noted.

3. Section 3.102 is amended by adding a new paragraph (e) as follows:

§ 3.102 Definitions.

* * * * *

(e) "He" or "his" means persons of either sex, as appropriate.

4. Section 3.202(b)(2) is amended by adding a new subparagraph (v) as follows:

§ 3.202 Designation of counselors and statement of functions.

* * * * *

(b) * * *

(2) * * *

(v) Reviewing and maintaining copies of statements of known financial interests, filed pursuant to the provisions of Subpart C of this part.

5. The first sentence of paragraph (a) of § 3.203 is amended to read as follows:

§ 3.203 Review, enforcement, reporting, and investigating.

(a) Each statement of known financial interests and each statement and supplementary statement of employment and financial interests submitted under Subpart C of this part shall be reviewed by the appropriate Deputy Counselor or by the Agency Counselor. * * *

* * * * *

6. Section 3.301 is amended by revising paragraphs (a), and (c) and by adding paragraph (d) to read as follows:

§ 3.301 General.

(a) Employees are subject to three types of controls in connection with apparent or actual conflicting financial interests. One type is a criminal statute, 18 U.S.C. 208, which by its terms prohibits an employee's participation in certain official activities where he has a conflicting personal financial interest. The second type is a requirement under Executive Order No. 11222 of May 8, 1965, and Civil Service Commission regulations that employees occupying certain Government positions shall report all personal financial interests and outside employment by filing a statement of employment and financial interests. The third type is the requirement under two specific acts, the Toxic Substances Control Act (15 U.S.C. 2601 et seq., 90 Stat. 2003, Pub. L. 94–469) and the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq., 90 Stat. 2795, Pub. L. 94–580), that employees performing any functions or duties under either act must file a written statement of known financial interests in persons subject to or receiving benefits under either act. The criminal statute, the statement of employment and financial interests, and the statement of known financial interests have the common objective of deterring the occurrence of conflicting financial interest situations. The criminal statute prohibits and punishes. The statement of employment and financial interests and the statement of known financial interests are intended to aid the employee and those who review his statements in identifying and avoiding situations that present conflicts of interest.

* * * * *

(c) All employees, whether or not they are required to file a statement of employment and financial interests or a statement of known financial interests, shall avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of section 208(a) of Title 18, United States Code, or of this subpart.

(d) All employees shall file the statement of known financial interests referred to in paragraph (a) of this section in accordance with sections 3.305 and 3.306 and with the procedures set forth in Appendix D to this subpart. The submission of a statement by an employee does not permit him or any other person to act in a manner prohibited by law, order, or regulation. Procedures for obtaining waivers of the prohibitions of section 208(a) of Title 18, United States Code, are set forth in § 3.303.

7. Subpart C is amended by adding the following two new sections after § 3.304:

Subpart C—Financial Interest and Investments

§ 3.305 Statements of known financial interests under the Toxic Substances Control Act.

(a) Under section 26(e) of the Toxic Substances Control Act (15 U.S.C. 2625(e)) each employee who performs any function or duty under the Act shall submit, on February 1, 1978, and on February 1 of each year following a statement of known financial interests the employee had in the preceding calendar year in any person subject to the Act or to any rule or order in effect under the Act or any person who applies for or receives any grant or contract under the Act. Any employee who knowingly violates this section may be subject to a fine of not more than $2,500 or imprisonment for not more than one year, or both.

(b) Certain employees are exempted from the requirement to file the statement of known financial interests. These employees are specified in Appendix E to this subpart.

(c) Each nonexempt employee shall submit the statement of known financial interests in accordance with the procedures set forth in Appendix D to this subpart.

(d) The following definitions apply to this section:

(1) "Known financial interest" means any pecuniary interest, employment, or debt of which the employee is aware or of which the employee would be aware if he were to take all reasonable steps to inform himself concerning his financial interests, including but not limited to reading all reports, contracts, and other documents that come into his possession in the course of his financial dealings. Financial interests of the employee's spouse, minor children, or any blood relative resident in the employee's household are considered financial interests of the employee. Financial interests do not include:

(i) Bonds other than corporate bonds.

(ii) Shares of mutual funds with diversified portfolios.

(iii) Insurance policies.

(iv) Cash, savings accounts, certificates of deposit, and shares in Federal credit unions.

(v) Ownership of real property used as the personal residence of the employee.

(vi) Any benefit to the employee from or holdings in a "blind trust," other than the initial holdings placed in the trust if known to the employee. A blind trust is one in which the trustee has sole discretion to sell, buy, or exchange the holdings, and the employee has no knowledge of or control over the holdings, other than the initial holdings committed to the trust.

(vii) Any vested interest of the employee in any pension, retirement, group life, health, or accident insurance plan, or other employee welfare or benefit plan that is maintained by his former employer, other than a profit-sharing or stock-bonus plan, if the benefit is not subject to change as a result of subsequent events except automatic cost-of-living increases.

(2) "Person subject to the Act or to any rule or order in effect under the Act or any person who applies for or receives any grant or contract under the Act" means any natural person, corporation, partnership, association, consortium, governmental entity, or any entity organized for a common business purpose that:

(i) Is involved in manufacturing, importing, processing, distributing, using, or disposing of a chemical substance or mixture covered by the Act;

(ii) Is covered by a rule or order promulgated by the Administrator under the Act that requires testing, reporting, recordkeeping, reimbursement, repurchasing, replacement, limitations on quantities produced, labeling, warnings or disposal; or one that prohibits manufactur-

ing, processing, or distributing; or one that exempts a person from a requirement; or

(iii) Is an applicant or bidder for or recipient of a grant or contract under the Act.

(e) Section 26(e) of the Act specifies that statements of known financial interests filed under the Act are available to the public.

(f) If an employee believes that the position he holds should be listed in Appendix E as exempt from the requirement to submit a statement of known financial interests because (1) he does not perform any function or duty under the Act, or (2) if he does perform a function or duty, his position is not regulatory or policymaking in nature under the Act, the employee may file a request with his Deputy Counselor for exemption of his position from the requirements of this section. The Deputy Counselor shall evaluate the request within 30 days of receipt and report his recommendation to the Agency Counselor. The agency Counselor shall make a decision and report to the employee within 30 days of receipt of the recommendation. The Agency Counselor may, with the approval of the Administrator, amend Appendix E whenever appropriate, on his own initiative or in response to a request for exemption. Any amendments shall be distributed to affected employees and all Deputy Counselors and shall be filed in the Office of Public Affairs where the completed statements of known financial interests are kept.

(g) Each December, beginning in 1977, the Agency Counselor shall review the exemptions in Appendix E to determine whether amendments are appropriate, including any specific exemptions granted under paragraph (f) of this section. The Agency Counselor shall, with the approval of the Administrator, publish any amendments to Appendix E in the FEDERAL REGISTER by December 31 to be applicable to the statements of known financial interests to be filed the following February 1.

(Sec. 26, Public Law 94-469, 90 Stat. 2046 (15 U.S.C. 2625).)

§ 3.306 Statements of known financial interests under the Resource Conservation and Recovery Act of 1976.

(a) Under section 1007 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6906) each employee who performs any function or duty under the Act shall submit on February 1, 1977, and on February 1 of each year following, a statement of known financial interests the employee had in the preceding calendar year in any person who applies for or receives financial assistance under the Act. Any employee who knowingly violates this section may be subject to a fine of not more than $2,500 or imprisonment for not more than one year, or both.

(b) Certain employees are exempted from the requirement to file the statement of known financial interests. These employees are specified in Appendix F to this subpart.

(c) Each nonexempt employee shall submit the statement of known financial interests in accordance with the procedures set forth in Appendix D to this subpart.

(d) The following definitions apply to this section:

(1) "Known financial interest" has the meaning given in § 3.305(d)(1) which is incorporated by reference.

(2) "Person who applies for or receives financial assistance under the Act" means any natural person, corporation (including a government corporation), partnership, any interstate body, association, consortium, state or local government, or any entity organized for a common public or business purpose that applies for or receives financial assistance under sections 2004, 3011, 4007, 4008, 4009, 7007, 8001, 8004, 8005, or 8006 of the Act. (42 U.S.C., sections 6914, 6931, 6947, 6948, 6949, 6977, 6981, 6984, 6985, and 6986.)

(e) Section 1007 of the Act specifies that statements of known financial interests filed under the Act are available to the public.

(f) If an employee believes that the position he holds should be listed in Appendix F as exempt from the requirement to submit a statement of known financial interests because: (1) He does not perform any function or duty under the Act, or (2) if he does perform a function or duty, his position is not of a policymaking nature under the Act, the employee may file a request with his Deputy Counselor for exemption of his position from the requirements of this section. The Deputy Counselor shall evaluate the request within 30 days of receipt and report his recommendation to the Agency Counselor. The Agency Counselor shall make a decision and report it to the employee within 30 days of receipt of the recommendation. The Agency Counselor may, with the approval of the Administrator, amend Appendix F whenever appropriate, on his own initiative or in response to a request for exemption. Any amendments shall be distributed to affected employees and all Deputy Counselors and shall be filed in the Office of Public Affairs where the completed statements of known financial interests are kept.

(g) Each December, beginning in 1977, the Agency Counselor shall review the exemptions in Appendix F to determine whether amendments are appropriate, including any exemptions granted under paragraph (f) of this section. The Agency Counselor shall, with the approval of the Administrator, publish any amendments to Appendix F in the FEDERAL REGISTER by December 31 to be applicable to the statements of known financial interests to be submitted the following February 1.

(Sec. 1007, Public Law 94-580, 90 Stat. 2802 (42 U.S.C. 6906).)

8. Subpart C is amended by adding the following three new appendices after Appendix C:

APPENDIX D—PROCEDURES FOR FILING STATEMENTS OF KNOWN FINANCIAL INTERESTS

(a) Procedures for employees:

(1) Each employee who is required to submit a statement of known financial interests under this subpart shall use EPA Form 3120-4 which may be obtained from his supervisor, his Deputy Counselor, or the Agency Counselor.

(2) If the employee is uncertain as to whether he must file Form 3120-4 under one or more of the acts, he may ask his Deputy Counselor or the Agency Counselor for guidance. If the employee believes his position should be exempt from the filing requirement, he may request an exemption under the applicable procedure in the regulations under this subpart.

(3) The employee shall file a separate Form 3120-4 for each act under which he is required to submit information.

(4) The employee shall file each Form 3120-4 with his Deputy Counselor by the date specified in the applicable regulation in this subpart.

(5) The employee shall supply complete answers to all items on each Form 3120-4 he files, in accordance with the applicable regulations under this subpart and the instructions on Form 3120-4. If the employee does not know whether certain financial interests should be included on Form 3120-4 he may ask his Deputy Counselor or the Agency Counselor for guidance. All communications with Deputy Counselors and the Agency Counselor shall be held confidential.

(b) Procedures for Agency Counselor and Deputy Counselors:

(1) Deputy Counselors shall notify each employee, who is not exempt from the requirement to file Form 3120-4 under one or more of the acts, of his obligation to file. This notice shall be given at least 30 days prior to the filing date specified in the regulations and shall include specification of each act under which the employee is required to file, where each filing must be made, the date by which filing is due, and copies of Form 3120-4 for the employee to complete.

(2) Upon receipt of a Form 3120-4 from an employee, the Deputy Counselor shall review it for completeness. If any item is missing, the Deputy Counselor shall return the form to the employee for correction.

(3) If the form is complete, the Deputy Counselor shall review it in accordance with the regulations in this subpart and Subpart B. If he finds the employee has included information that is not required, he shall give the employee the opportunity to submit a revised form in place of the original. After completing this and any other follow-up actions under the regulations, the Deputy Counselor shall keep a copy of the form, sign the original of the form, and forward the form to the Office of Public Affairs where the forms are kept.

(4) Any inquiries from an employee concerning whether he must file Form 3120-4 or what information must be included on the form shall be answered promptly so as not to interfere with the timely filing of the form.

(c) The signed originals of all Form 3120-4's filed under this subpart shall be kept in the Office of Public Affairs where they shall be made available to the public for inspection and copying.

(d) All internal communications about Form 3120-4 among employees, Deputy Counselors, and the Agency Counselor shall be held in confidence. No disclosure of these communications shall be made except as the Administrator may determine for good cause shown.

APPENDIX E—POSITIONS WHOSE INCUMBENTS ARE EXEMPT FROM FILING STATEMENTS OF KNOWN FINANCIAL INTERESTS UNDER THE TOXIC SUBSTANCES CONTROL ACT

Employees who occupied positions listed below for the entire preceding calendar year and who continue to occupy a position listed below through the February 1 filing date are exempt from filing statements of known financial interests under the Toxic Substances Control Act. If at any time during the preceding calenar year or through the February 1 filing date an employee occupies a position not listed below, the employee must file a statement of known financial interests. Whenever the title of a position is used in the list below, it includes any person who occupies the position as "acting."

APPENDIX F—POSITIONS WHOSE INCUMBENTS ARE EXEMPT FROM FILING STATEMENTS OF KNOWN FINANCIAL INTERESTS UNDER THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976

Employees who occupied positions listed below for the entire preceding calendar year and who continue to occupy a position listed below through the February 1 filing date are exempt from filing statements of known financial interests under the Resource Conservation and Recovery Act of 1976. If at any time during the preceding calendar year or through the February 1 filing date an employee occupies a position not listed below, the employee must file a statement of known financial interests. Whenever the title of a position is used in the list below, it includes any person who occupies the position as "acting."

Exemptions:

(1) All employees of the Office of General

(2) All special government employees.

(3) Under the Office of the Administrator:

(a) All employees of the Office of General Counsel except the General Counsel, the Deputy General Counsel, the Associate General Counsel for Air Quality and Noise Contion, the Deputy Associate General Counsel Grants, Contracts, and General Administration, the Deputy Associate General Counsel for Contracts and General Administration, and the staff attorneys responsible for drafting the regulations in this part.

(b) All employees of the Office of Federal Activities except the Director.

(c) All employees of the Office of Regional and Intergovernmental Operations except the Director.

(d) All employees of the Office of Land Use Coordination except the Director.

(e) All employees of the Regional Offices except the Regional Administrators.

(f) Of those offices not mentioned above, all employees of the Office of the Administrator except the Administrator, the Deputy Administrator, and members of the RCRA Strategy Development Work Group and the Strategy Development Review Group.

(4) Under the Office of Planning and Management:

(a) All employees of the Office of Administration except the Deputy Assistant Administrator, the Associate Deputy Assistant Administrator, and the Director, Deputy Director and Branch Chiefs of the Contracts Management Division.

(b) All employees of the Office of Planning and Evaluation except the Deputy Assistant Administrator and the Director of the Standards and Regulations Evaluation Division.

(c) All employees of the Office of Resources Management except the Deputy Assistant Administrator, the Associate Deputy Assistant Administrator, and the Director and Branch Chiefs of the Grants Administration Division.

(d) Of those offices not mentioned above, all employees of the Office of Planning and Management except the Assistant Administrator.

(5) Under the Office of Enforcement:

(a) All employees of the Office of Water Enforcement except the Deputy Assistant Administrator and the Director of the Permits Division.

(b) All employees of the Office of General Enforcement except the Deputy Assistant Administrator, the Director of the Pesticides and Toxic Substances Enforcement Division, and the Chief of the Toxic Substances Branch.

(c) Of those offices not mentioned above, all employees of the Office of Enforcement except the Assistant Administrator.

(6) Under the Office of Water and Hazardous Materials:

(a) All employees of the Office of Water Planning and Standards except the Deputy Assistant Administrator, the Director of the Water Planning Division, and the Chief of the Nonpoint Sources Branch.

(b) All employees of the Office of Water Programs Operations except the Deputy Assistant Administrator, the Director of the Municipal Construction Division, and the Chief of the Municipal Technology Branch.

(c) All employees of the Office of Water Supply except the Deputy Assistant Administrator and the Director of the State Programs Division.

(d) Of those offices not mentioned above, all employees of the Office of Water and Hazardous Materials except the Assistant Administrator.

(7) Under the Office of Air and Waste Management:

(a) All employees of the Office of Program Management Operations except the Director.

(b) All employees of the Office of Policy Analysis except the Director.

(c) All employees of the Office of Transportation and Land Use Policy except the Director.

(d) All employees of the Office of Solid Waste below the level of Branch Chief.

(e) Of those offices not mentioned above, all employees of the Office of Air and Waste Management except the Assistant Administrator.

(8) Under the Office of Research and Development:

(a) All employees of the Office of Energy, Minerals, and Industry except the Deputy Assistant Administrator, the Associate Deputy Assistant Administrator, and the Director of the Energy Processes Division.

(b) All employees not in the office mentioned above except the Assistant Administrator, the Deputy Assistant Administrator for Health and Ecological Effects, the Deputy Assistant Administrator for Air, Land and Water Use, and the Director of the Municipal Environmental Research Laboratory in Cincinnati, Ohio.

9. Section 3.607 is amended by adding the following new paragraphs:

§ 3.607 Other statutes.

* * * * *

(c) Under section 26 of the Toxic Substances Control Act special government employees are required to file a statement of known financial interests unless specifically exempted from the requirement to file. Special government employees shall be subject to the requirements and procedures of § 3.305.

(d) Under section 1007 of the Resource Conservation and Recovery Act of 1976 special government employees are required to file a statement of known financial interests unless specifically exempted from the requirement to file. Special government employees shall be subject to the requirements and procedures of § 3.306.

Dated: January 31, 1977.

JOHN QUARLES,
Acting Administrator.

[FR Doc.77-3439 Filed 2-3-77;8:45 am]

SUBCHAPTER C—AIR PROGRAMS

[FRL 676-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Vermont Revision

On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with exceptions, the Vermont Implementation Plan for attainment of National Ambient Air Quality Standards.

On October 22, 1976 there was published in the FEDERAL REGISTER (41 FR 46617) a notice of proposed rulemaking for a revision concerning changes in the Vermont Regulations, Chapter 5, "Air Pollution Control". The revision includes regulatory changes which have been adopted as State regulations by the Agency of Environmental Conservation. The changes make the Vermont regulations consistent with EPA emission limitations and testing methods. The changes to the State regulations are summarized as follows:

Regulation 5-221: *Prohibition of Pollution Potential Materials in Fuel.* A new subsection (b) would set emission limitations of .80 lb. SO_2 per million Btu heat input for new stationary liquid fossil fuel fired steam generators greater than 250 million Btu's and 1.2 lb. SO_2 per million Btu for solid fossil fuels.

Regulation 5-231: *Prohibition of Particulate Matter; Section 2, Incinerator Emissions.* Changes to subsection (a) of Section 2 revise this subsection to apply only to incinerators with a charging rate of less than 50 tons per day and add a new subsection (c), which would specify an emission limitation of 0.08 grains per dry standard cubic foot for incinerators with a charging rate of 50 tons or more per day.

Regulation 5-231: *Section 3, Combustion Contaminants.* Changes to this section make the regulation applicable to sources of a smaller capacity by revising the source category size cutoff of 300 million Btu/hour to 250 million Btu/hour in subsections a(2) and a(3). Subsection a(c) is eliminated.

Regulation 5-231: *Section 6, Installations Constructed Subsequent to April 30, 1971.* This section affecting asphalt plants is revised to change allowable emissions of particulate matter from .07 to .04 grain per dry standard cubic foot.

Regulation 5-303: *Standards.* This regulation is revised to include the pulse fluorescent method as an acceptable method for the determination of ambient SO_2 concentrations.

Interested persons were given thirty (30) days in which to submit comments regarding the proposed revision. No comments have been received.

After evaluation of the State's submittal, the Administrator has determined that the Vermont revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly this revision is approved and promulgated as a revision to the Vermont Implementation Plan.

The revision becomes effective on March 7, 1977.

AUTHORITY: Section 110(a), Clean Air Act, as amended, 42 U.S.C. 1857c-5(a).

Dated: January 28, 1977.

JOHN QUARLES,
Acting Administrator.

Part 52 of Chapter 1, Title 40, Code of Federal Regulations, is amended as follows:

Subpart UU—Vermont

§ 52.2370 [Amended]

1. In § 52.2370, paragraph (c) is hereby amended by adding the phrase "Revision to Vermont Regulations, Chapter 5, 'Air Pollution Control', by letter submitted on July 19, 1976 by the Vermont Agency of Environmental Conservation," in proper chronological order.

[FR Doc.77-3441 Filed 2-3-77;8:45 am]

[FRL 681-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the Massachusetts Plan; Correction

In the FEDERAL REGISTER dated October 8, 1976 (41 FR 44395) the Administrator published approval of a revision to the Massachusetts Plan, Regulation 50—Variances. In the amendment to 40 CFR 52.1120 the Plan revision was identified in a style inconsistent with present Agency practice as set forth in the amendment of Identification of Plan sections of 40 CFR Part 52 published in the FEDERAL REGISTER, dated March 2, 1976 (41 FR 8956). Also, the amendment to 40 CFR 52.1131(a) to revoke disapproval of Regulation 50 was inadvertently omitted from the regulatory portion of the revision.

Accordingly, the revision to 40 CFR 52.1120 and 52.1131 is corrected to read as set forth below.

Dated: January 31, 1977.

EDWARD F. TUERK,
Acting Assistant Administrator, Office of Air and Waste Management.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart W—Massachusetts

§ 52.1120 [Amended]

1. Section 52.1120 is amended by striking the date November 14, 1974 and by inserting the phrase "Revision to Regulation 50—Variances, Regulations for Control of Air Pollution in the six Massachusetts Air Pollution Control Districts, submitted by letter dated November 14, 1974, by the Governor" in the proper chronological order.

§ 52.1131 [Amended]

2. Section 52.1131(a) is revised by deleting the words "Regulation 50.1 and" and inserting in place thereof the word "Regulation" on the first line, and further by deleting, in lines twelve and thirteen, the word "are" and the words "They permit" and inserting in place thereof the word "is" and the words "it permits".

[FR Doc.77-3704 Filed 2-3-77;8:45 am]

[FRL 682-4]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Delegation of Authority to City of Philadelphia

Pursuant to the delegation of authority for the standards of performance for new stationary sources (NSPS) to the City of Philadelphia on September 30, 1976, EPA is today amending 40 CFR 60.4, Address, to reflect this delegation. For a notice announcing this delegation, see FR Doc. 77-3712 published in the Notices section of today's FEDERAL REGISTER. The amended § 60.4, which adds the address of the Philadelphia Department of Public Health, Air Management Services, to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this Administrative amendment was effective on September 30, 1976, and it serves no purpose to delay the technical change of this address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of section 111 of the Clean Air Act, as amended, 42 U.S.C. 1857c-6.

Dated: January 25, 1977.

A. R. MORRIS,
Acting Regional Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 60.4, paragraph (b) is amended by revising subparagraph (NN) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(A)-(MM) * * *

(NN) (a) City of Philadelphia: Philadelphia Department of Public Health, Air Management Services, 801 Arch Street, Philadelphia, Pennsylvania 19107.

* * * * *

[FR Doc.77-3709 Filed 2-3-77;8:45 am]

[FRL 682-6]

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to City of Philadelphia

Pursuant to the delegation of authority for national emission standards for hazardous air pollutants (NESHAPS) to the City of Philadelphia on September 30, 1976, EPA is today amending 40 CFR 61.04, Address, to reflect this delegation. For a Notice announcing this delegation, see FR Doc. 77-3712 published in the Notices section of today's FEDERAL REGISTER. The amended § 61.04, which adds the address of the Philadelphia Department of Public Health, Air Management Services, to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this Administrative amendment was effective on September 30, 1976, and it serves no purpose to delay the technical change of this address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 1857c-7.

Dated: January 25, 1977.

A. R. MORRIS,
Acting Regional Administrator.

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 61.04, paragraph (b) is amended by revising Subparagraph (NN) to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(A)-(MM) * * *

(NN) (b) City of Philadelphia.
Philadelphia Department of Public Health.
Air Management Services,
801 Arch Street,
Philadelphia, Pennsylvania 19107.

[FR Doc.77-3711 Filed 2-3-77;8:45 am]

[FRL 682-5]

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to Commonwealth of Pennsylvania

Pursuant to the delegation of authority for National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the Commonwealth of Pennsylvania on September 30, 1976, EPA is today amending 40 CFR 61.04, Address, to reflect this delegation. For a Notice announcing this delegation, see FR Doc 77-3713 published in the Notices section of today's FEDERAL REGISTER. The amended § 61.04, which adds the address of the Pennsylvania Department of Environmental Resources, Bureau of Air Quality and Noise Control, to which all reports, requests, applications, submittals, and communications to the Administrator pursuant to this part must also be addressed, is set forth below.

The Administrator finds good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this Administrative amendment was effective on September 30, 1976, and it serves no purpose to delay the technical change of this address to the Code of Federal Regulations.

This rulemaking is effective immediately, and is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 1857c–7.

Dated: January 25, 1977.

A. R. MORRIS,
Acting Regional Administrator.

Part 61 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 61.04, paragraph (b) is amended by revising Subparagraph (NN) to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(A)–(MM) * * *

(NN) (a) Commonwealth of Pennsylvania (except for City of Philadelphia and Allegheny County)

Pennsylvania Department of Environmental Resources,
Bureau of Air Quality and Noise Control,
Post Office Box 2063,
Harrisburg, Pennsylvania 17120.

[FR Doc.77-3710 Filed 2-3-77;8:45 am]

[FRL 680-8]

PART 408—CANNED AND PRESERVED SEAFOOD PROCESSING POINT SOURCE CATEGORY

Subpart AA—Steamed and Canned Oyster Processing

On October 7, 1976, the Environmental Protection Agency published in the FEDERAL REGISTER (41 FR 44194) a notice of proposed rulemaking setting forth an amendment to 40 CFR Part 408, Canned and Preserved Seafood Processing Point Source Category; Subpart AA—Steamed and Canned Oyster Processing Subcategory, § 408.273. Interested persons were invited to submit, not later than November 8, 1976, written comments concerning the proposed amendment.

40 CFR Part 408 was promulgated on December 1, 1975, (40 FR 55770) pursuant to sections 301, 304 (b) and (c), 306 (b) and (c) and 307 (b) and (c) of the Federal Water Pollution Control Act as amended, 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92–500.

The Agency received comments from the National Canners Association and the American Shrimp Canners Association which supported the proposed amendment for the 1983 steamed and canned oyster processing limitations but also recommended that the corresponding new source performance standards be amended in a similar manner. They suggested that the dual treatment requirement (dissolved air flotation for shrimp processing and aerated lagoons for steamed and canned oyster processing) would likely preclude new source multiproduct plants from being planned.

Since many of the technical and economic factors which prompted publication of the proposed amendment to the 1983 limitations (41 FR 44194) also apply to the new source performance standards, the Agency concludes that the available information justifies a similar amendment to the steamed and canned oyster processing new source performance standards (40 CFR 408.275). For example, the regulations based on the performance of aerated lagoon treatment systems are more restrictive than those based on the performance of dissolved air flotation systems. Therefore, those shrimp processors utilizing dissolved air flotation technology probably could not achieve the removals necessary to comply with the steamed and canned oyster processing regulations without also employing aerated lagoon treatment systems.

No other comments have been received.

As noted previously in the regulations, the report entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Fish Meal, Salmon, Bottom Fish, Clam, Oyster, Sardine, Scallop, Herring, and Abalone Segment of the Canned and Preserved Seafood Processing Industry Point Source Category," (EPA 440/1–75/041a) details the analysis undertaken in support of the final regulation and is available for inspection at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St., S.W., Washington, D.C., at all EPA regional offices, and at State water pollution control offices. The analysis prepared for EPA of the possible economic effects of the regulation is also available for inspection at these locations.

Copies of the Development Document are available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis document are available through the National Technical Information Service, Springfield, VA 22151. (See EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973.)

A copy of all public comments is available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M Street, S.W., Washington, D.C. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

In consideration of the foregoing, 40 CFR Part 408 is amended as set forth below.

Effective date: February 4, 1977.

Dated: January 28, 1977.

JOHN QUARLES,
Acting Administrator.

Subpart AA—Steamed and Canned Oyster Processing Subcategory

Subpart AA is amended by adding an additional phrase to the first sentence of § 408.273, as follows:

§ 408.273 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

* * * except for those steamed and canned oyster processing facilities which utilize air flotation treatment systems to meet the shrimp processing effluent limitations guidelines under §§ 408.113, 408.123, or § 408.133 and for which effluent limitations should be derived on a case-by-case basis, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

* * * * *

Subpart AA is amended by adding an additional phrase to the first sentence of § 408.275, as follows:

§ 408.275 Standards of performance for new sources.

* * * except for those steamed and canned oyster processing facilities which utilize air flotation treatment systems to meet the shrimp processing standards of performance for new sources under sections 408.115, 408.125, or 408.135 and for which standards of performance should be derived on a case-by-case basis, the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

* * * * *

[FR Doc.77-3442 Filed 2-3-77;8:45 am]

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 681-7]

PART 439—PHARMACEUTICAL MANUFACTURING POINT SOURCE CATEGORY

Correction Notice for Fermentation Products Subcategory

Notice is hereby given that the Environmental Protection Agency is amending 40 CFR Part 439, Pharmaceutical Manufacturing Point Source Category, Subpart A, Fermentation Products Subcategory, § 439.12 as set forth below.

40 CFR Part 439 was published in interim final form on November 17, 1976 (41 FR 50676) pursuant to sections 301 and 304 (b) and (c), of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311 and 1314 (b) and (c), 86 Stat. 816 et seq.; Pub. L. 92–500) (the Act).

The regulation for the fermentation products subcategory of the pharmaceutical manufacturing point source category contained a clause which may be interpreted to exclude the spent beer

from calculation of the raw waste load. To make clear the intent of the Agency, a minor change in the text of § 439.12 (a) is necessary. That change deletes the words "spent beers (broth)" from that section.

A second minor change is to insert the word separable in front of mycelia the first time this word appears in this same paragraph.

A summary of findings, the data collected and the information received regarding this amendment will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922 (EPA Library), Waterside Mall, 401 M St. SW., Washington, D.C. 20460. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

The Agency will accept amendments to comments already filed where, and to the extent, such comments specifically relied upon numbers or words contained in the November 17, 1976 notice and corrected today. Amended comments must be received on or before March 3, 1977.

In consideration of the foregoing, 40 CFR, Chapter I, Subchapter N, Part 439, Pharmaceutical Manufacturing Point Source Category, Subcategory A, Fermentation Products Subcategory is corrected to read as set forth below. Proposal of this change was not published because of the need to end uncertainty concerning these interim final regulations. The Agency, therefore, believes that good cause exists for the elimination of proposal and public comment prior to promulgation. The interim final regulation is corrected as set forth below and shall be effective February 7, 1977.

Dated February 1, 1977.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

1. Section 439.12 is corrected by changing paragraph (a) in this section to read as follows:

§ 439.12 Effluent limitations and guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this paragraph, which may be discharged by a fermentation products plant from a point source subject to the provisions of this paragraph after application of the best practicable control technology currently available:

(1) The allowable effluent discharge limitation for the daily average mass of BOD5 in any calendar month shall be expressed in mass per unit time and shall specifically reflect not less than 90% reduction in the long term daily average raw waste content of BOD5 multiplied by a variability factor of 3.0.

(2) The allowable effluent discharge limitation for the daily average mass of COD in any calendar month shall be expressed in mass per unit time and shall specifically reflect not less than 74% reduction in the long term daily average raw waste content of COD multiplied by a variability factor of 2.2.

(3) The long term daily average raw waste load for the pollutant BOD5 and COD is defined as the average daily mass of each pollutant influent to the wastewater treatment system over a 12 consecutive month period within the most recent 36 months, which shall include the greatest production effort.

(4) To assure equity in regulating discharges from the point sources covered by this subpart of the point source category, calculation of raw waste loads of BOD5 and COD for the purpose of determining NPDES permit limitations (i.e., the base numbers to which the percent reductions are applied) shall exclude any waste load associated with separable mycelia and solvents in those raw waste loads; provided that residual amounts of mycelia and solvents remaining after the practice of recovery and/or separate disposal or reuse may be included in calculation of raw waste loads. These practices of removal, disposal or reuse include physical separation and removal of separable mycelia, recovery of solvents from waste streams, incineration of concentrated solvent waste streams (including tar still bottoms) and broth concentrated for disposal other than to the treatment system. This regulation does not prohibit inclusion of such wastes in the raw waste loads in fact, nor does it mandate any specific practice, but rather describes the rationale for determining the permit conditions. These limits may be achieved by any one of several or a combination thereof of programs and practices.

(5) The pH shall be within the range of 6.0–9.0 standard units.

[FR Doc.77-3484 Filed 2-3-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 114—DEPARTMENT OF THE INTERIOR

PART 114–60—PERSONAL PROPERTY MANAGEMENT

Property Management Standards for Grants

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and 40 U.S.C. 486(c), Subpart 114-6010 of Chapter 114, Title 41 of the Code of Federal Regulations, is revised as set forth below.

This revision relates only to matters of internal Department practice. It is therefore, determined that the public rulemaking procedure is unnecessary and this revision shall become effective on February 4, 1977.

NOTE.—The Department of the Interior 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 26, 1977.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

1. Subpart 114–60.10 is revised to read as follows:

Subpart 114–60.10—Property Management Standards for Grants

Sec.
114–60.1000 Scope of subpart.
114–60.1001 State and local governments.
114–60.1002 Institutions of higher education, hospitals and other private organizations.

AUTHORITY: 5 U.S.C. 301, 40 U.S.C. 486(c).

Subpart 114–60.10—Property Management Standards for Grants

§ 114–60.1000 Scope of subpart.

This subpart implements, and provides reproductions of, the Property Management Standards prescribed by Federal Management Circular (FMC) 74–7 and Office of Management and Budget (OMB) Circular No. A–110.

§ 114–60.1001 State and local governments.

Under a grant to any State or local government, property shall be managed in accordance with the standards and procedures prescribed in Attachment N of FMC 74–7 (see Appendix A of this subpart).

§ 114–60.1002 Institutions of higher education, hospitals, and other private organizations.

(a) Under a grant to, or other agreement with, an institution of higher education, a hospital, or other nonprofit organization, property shall be managed in accordance with the standards and procedures prescribed in Attachment N of OMB Circular No. A–110 (see Appendix B of this subpart) unless otherwise authorized by statute such as Pub. L. 85–934 (42 U.S.C. 1892) or Pub. L. 92–175 (42 U.S.C. 1961c–8).

(b) 42 U.S.C. 1892 provides statutory authority for the vesting of title to equipment purchased with grant (or contract) funds when the grant (or contract) is for the conduct of basic or applied scientific research at nonprofit institutions of higher education or nonprofit organizations whose primary purpose is the conduct of scientific research.

(c) 42 U.S.C. 1961c–8 provides statutory authority for the conveyance of excess personal property to a cooperating institute, educational institution, or nonprofit organization when such property is for use in furtherance of the purposes of the Water Resources Research Act of 1964.

2. Appendix A is amended by changing the title to read as follows:

APPENDIX A—PROPERTY MANAGEMENT STANDARDS FOR GRANTS—STATE AND LOCAL GOVERNMENTS

[FMC 74–7, Attachment N; Property Management Standards]

3. Appendix B is added to read as follows:

APPENDIX B—PROPERTY MANAGEMENT STANDARDS FOR GRANTS—EDUCATIONAL INSTITUTIONS, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS

[Circular No. A–110, Attachment N; Property Management Standards]

1. This attachment prescribes uniform standards governing management of prop-

erty furnished by the Federal Government or whose cost was charged to a project supported by a Federal grant or other agreement. Federal sponsoring agencies shall require recipients to observe these standards under grants and other agreements and shall not impose additional requirements unless specifically required by Federal law. The recipient may use its own property management standards and procedures provided it observes the provisions of this attachment. This attachment also applies to subrecipients as referred to in paragraph 5 of the basic circular.

2. The following definitions apply for the purpose of this attachment:

a. *Real property.*—Real property means land, including land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

b. *Personal property.*—Personal property of any kind except real property. It may be tangible—having physical existence, or intangible—having no physical existence, such as patents, inventions and copyrights.

c. *Nonexpendable personal property.*—Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit exempt that recipients subject to Cost Accounting Standards Board regulations may use the CASB standard of $500 per unit and useful life of two years. A recipient may use its own definition of nonexpendable personal property provided that the definition, would at least include all tangible personal property as defined above.

d. *Expendable personal property.*—Expendable personal property refers to all tangible personal property other than nonexpendable property.

e. *Excess property.*—Excess property means property under the control of any Federal agency that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

f. *Acquisition cost of purchased nonexpendable personal property.*—Acquisition cost of an item of purchased nonexpendable personal property means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the recipient's regular accounting practices.

g. *Exempt property.*—Exempt property means tangible personal property acquired in whole or in part with Federal funds and title to which is vested in the recipient without further obligation to the Federal Government except as provided in subparagraph 6a below. Such unconditional vesting of title will be pursuant to any Federal legislation that provides the Federal sponsoring agency with adequate authority.

3. *Real property.*—Each Federal sponsoring agency shall prescribe requirements for recipients concerning the use and disposition of real property acquired partly or wholly under grants or other agreements. Unless otherwise provided by statute, such requirements, as a minimum, shall contain the following:

a. Title to real property shall vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project, as long as it is needed.

b. The recipient shall obtain approval by the Federal sponsoring agency for the use of real property in other projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under other federally sponsored projects (i.e., grants or other agreements) or programs that have purposes consistent with those atuhorized for support by the Federal sponsoring agency.

c. When the real property is no longer needed as provided in a and b above, the recipient shall request disposition instructions from the Federal sponsoring agency or its successor Federal sponsoring agency. The Federal sponsoring agency shall observe the following rules in the disposition instructions:

(1) The recipient may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(2) The recipient may be directed to sell the property under guidelines provided by the Federal sponsoring agency and pay the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The recipient may be directed to transfer title to the property to the Federal Government provided that in such cases the recipient shall be entitled to compensation computed by applying the recipient's percentage of participation in the cost of the program or project to the current fair market value of the property.

4. *Federally-owned nonexpendable personal property.*—Title to federally-owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally-owned property in their custody to the Federal sponsoring agency. Upon completion of the agreement or when the property is no longer needed, the recipient shall report the property to the Federal sponsoring agency for further agency utilization.

If the Federal sponsoring agency has no further need for the property, it shall be declared excess and reported to the General Services Administration. Appropriate disposition instructions will be issued to the recipient after completion of the Federal agency review.

5. *Exempt property.*—When statutory authority exists, (e.g., P.L. 85-934, 42 U.S.C. 1892) title to nonexpendable personal property acquired with project funds, shall be vested in the recipient upon acquisition unless it is determined that to do so is not in furtherance of the objectives of the Federal sponsoring agency. When title is vested in the recipient, the recipient shall have no other obligation or accountability to the Federal Government for its use or disposition except as provided in 6a below.

6. *Other nonexpendable property.*—When other nonexpendable tangible personal property is acquired by a recipient with project funds, title shall not be taken by the Federal Government but shall vest in the recipient subject to the following conditions:

a. *Right to transfer title.*—For items of nonexpendable personal property having a unit acquisition cost of $1,000 or more, the Federal sponsoring agency may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards:

(1) The property shall be appropriately identified in the grant or other agreement or otherwise made known to the recipient in writing.

(2) The Federal sponsoring agency shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal sponsoring agency fails to issue disposition instructions within the 120 calendar day period, the recipient shall apply the standards of subparagraphs 6b and 6c as appropriate.

(3) When the Federal sponsoring agency exercises its right to take title, the personal property shall be subject to the provisions for federally-owned nonexpendable property discussed in paragraph 4, above.

(4) When title is transferred either to the Federal Government or to a third party the provisions of subparagraph 6c(2)(b) should be followed.

b. *Use of other tangible nonexpendable property for which the recipient has title.*

(1) The recipient shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original project or program, the recipient shall use the property in connection with its other federally sponsored activities, in the following order of priority:

(a) Activities sponsored by the same Federal agency.

(b) Activities sponsored by other Federal agencies.

(2) *Shared use.*—During the time that nonexempt nonexpendable personal property is held for use on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by the Federal agency that financed the property; second preference shall be given to projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by the Federal agency. User charges should be considered if appropriate.

c. *Disposition of other nonexpendable property.*—When the recipient no longer needs the property as provided in 6b above, the property may be used for other activities in accordance with the following standards:

(1) *Nonexpendable property with a unit acquisition cost of less than $1,000.*—The recipient may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(2) *Nonexpendable personal property with a unit acquisition cost of $1,000 or more.*—The recipient may retain the property for other uses provided that compensation is made to the original Federal sponsoring agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the recipient has no need for the property and the property has further use value, the recipient shall request disposition instructions from the original sponsoring agency. The Federal sponsoring agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported to the General Services Administration by the Federal agency to determine whether

a requirement for the property exists in other Federal agencies. The Federal sponsoring agency shall issue instructions to the recipient no later than 120 days after the recipient's request and the following procedures shall govern:

(a) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the property and reimburse the Federal sponsoring agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater, for the recipient's selling and handling expenses.

(b) If the recipient is instructed to ship the property elsewhere, the recipient shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the recipient's participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(c) If the recipient is instructed to otherwise dispose of the property, the recipient shall be reimbursed by the Federal sponsoring agency for such costs incurred in its disposition.

d. *Property management standards for nonexpendable property.*—The recipient's property management standards for nonexpendable personal property shall include the following procedural requirements:

(1) Property records shall be maintained accurately and shall include:

(a) A description of the property.

(b) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(c) Source of the property, including grant or other agreement number.

(d) Whether title vests in the recipient or the Federal Government.

(e) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(f) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(g) Location, use and condition of the property and the date the information was reported.

(h) Unit acquisition cost.

(i) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal sponsoring agency for its share.

(2) Property owned by the Federal Government must be marked to indicate Federal ownership.

(3) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the recipient shall promptly notify the Federal sponsoring agency.

(5) Adequately maintenance procedures shall be implemented to keep the property in good condition.

(6) Where the recipient is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

7. *Expendable personal property.*—Title to expendable personal property shall vest in the recipient upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the grant or other agreement, and the property is not needed for any other federally sponsored project or program, the recipient shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

8. *Intangible property.*

a. *Inventions and patents.*—If any program produces patentable items, patent rights, processes, or inventions, in the course of work sponsored by the Federal Government, such fact shall be promptly and fully reported to the Federal sponsoring agency. Unless there is a prior agreement between the recipient and the Federal sponsoring agency on disposition of such items, the Federal sponsoring agency shall determine whether protection on the invention or discovery shall be sought. The Federal sponsoring agency will also determine how the rights in the invention or discovery—including rights under any patent issued thereon—shall be allocated and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and statement of Government Patent Policy as printed in 36 F.R. 16889).

b. *Copyrights.*—Except as otherwise provided in the terms and conditions of the agreement, the author or the recipient organization is free to copyright any books, publications, or other copyrightable materials developed in the course of or under a Federal agreement, but the Federal sponsoring agency shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

[FR Doc.77-3463 Filed 2-3-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20660; RM-2559]

PART 73—RADIO BROADCAST SERVICES

TV Broadcast Stations in Beatrice, Falls City and Pawnee City, Nebraska; Changes Made in Table of Assignments

Adopted: January 27, 1977.

Released: February 1, 1977.

Report and Order—Proceeding terminated. In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Beatrice, Falls City, and Pawnee City, Nebraska), Docket No. 20660 RM-2559.

1. The Commission herein considers the Notice of Proposed Rule Making, 40 FR 59601, in the above-captioned proceeding instituted in response to a petition filed by the Nebraska Educational Television Commission ("NETC"). The petition proposed the amendment of § 73.606(b) of the Commission's rules, the Television Table of Assignments, by assigning channels reserved for noncommercial educational use at Beatrice (Channel *23), Falls City (Channel *24), and Pawnee City (Channel *33). The only comment received in response to the Notice was a reaffirmance of its initial comments by petitioner, and no reply comments were received.

2. NETC is the Nebraska state agency responsible for providing noncommercial television service to state residents. Eight educational TV stations licensed to NETC plus Station KUON–TV licensed to the University of Nebraska comprise the educational television network for the state of Nebraska. As the Notice pointed out, these nine stations, together with four television broadcast translator stations, provide service to all of the state except for an area in the southeastern part of the state which remains unserved. The assignments proposed in the Notice would allow NETC to complete the coverage of the state by initially operating high-powered translators on the requested assignments, and allowing future upgrading of the facilities to full broadcast station capability.[1]

3. Beatrice (pop. 12,389; Gage County, pop. 25,731), Falls City (pop. 5,444; Richardson County, pop. 12,277) and Pawnee City (pop. 1,267; Pawnee County, pop. 4,473) are all located in the unserved southeastern portion of Nebraska. NETC states that a first educational television service will be provided to 26,621 persons if its proposals were adopted.[2]

4. The Notice indicated that the proposed assignments meet the Commission's separation requirements and other technical criteria, and indicated that each may be assigned without requiring changes at other communities listed in the Table of Assignments. Additionally, the Notice pointed out that a minimum of seventeen channels are available for assignment at the selected communities and the petitioner has selected channels with the lowest numbers available for assignment to these communities.

5. In view of the above, the Commission believes that the public interest would be served by adopting the amendments proposed. We have been persuaded that adoption of the amendments will result in improved public television reception to an area of the state which has shared in the costs of the state's public television network but which, in the past, has received very little of the benefits.

6. *Accordingly, it is ordered*, That effective March 14, 1977, the Television

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[1] Pursuant to paragraph 4 of the Report and Order in Docket No. 18861, 23 R.R. 2d 1504 (1971), high-powered UHF translators may be operated only on channels which are listed in the Television Table of Assignments. See also §§ 74.702(g) and 74.735(e) of the rules.

[2] The Notice indicated that this figure does not include cable television system subscribers.

Table of Assignments (§ 73.606(b) of the Commission's rules) is amended by assigning channels reserved for noncommercial educational use to the communities named below:

City	Channel No.
Beatrice, Nebr.	*23+
Falls City, Nebr.	*24
Pawnee City, Nebr.	*33+

7. Authority for the action taken herein is found in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules.

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

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-3618 Filed 2-3-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

(Rev. S.O. No. 1210; Amdt. No. 5)

PART 1033—CAR SERVICE

Providence and Worcester Co.

At a Session of the INTERSTATE COMMERCE COMMISSION, Railroad Service Board, held in Washington, D.C., on the 31st day of January, 1977.

Upon further consideration of Revised Service Order No. 1210 (40 FR 7452, 19478, 41 FR 4929, 15414 and 32430), and good cause appearing therefor:

It is ordered, That: Service Order No. 1210 Providence and Worcester Company authorized to operate over tracks of Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond and John H. McArthur, Trustees; Penn Central Transportation Company, Robert W. Blanchette, Richard C. Bond and John H. McArthur, Trustees, authorized to operate over tracks of Providence and Worcester Company be, and it is hereby, amended by substituting the following paragraph (h) for paragraph (h) thereof:

(h) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective 11:59 p.m., January 31, 1977.

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

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

By the Commission, Railroad Service Board, members Joel E. Burns, Lewis R. Teeple and Thomas J. Byrne.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-3662 Filed 2-3-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH & WILDLIFE SERVICES DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Mingo National Wildlife Refuge

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special Regulations; upland game; for individual wildlife refuge areas.

MISSOURI

MINGO NATIONAL WILDLIFE REFUGE

Correction on opening date for hunting squirrels on Mingo National Wildlife Refuge as follows:

(1) The opening season for the hunting of squirrel on the refuge shall be from the opening date of the statewide season, *August 1, 1977* through September 30, 1977 inclusive.

GERALD L. CLAWSON,
Refuge Manager, Mingo National Wildlife Refuge, Puxico, Missouri.

JANUARY 14, 1977.

[FR Doc.77-3460 Filed 2-3-77;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 270—GENERAL INFORMATION AND DEFINITIONS

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program; Recission of Amendments

The FEDERAL REGISTER of May 7, 1976 (41 FR 18781), contained amendments to Parts 270 and 271 of the regulations governing the Food Stamp Program. The U.S. District Court for the Dirstrict of Columbia restrained implementation of these amendments and the Food Stamp Program has continued to be governed by the regulations in effect on May 6, 1976, except to the extent such regulations have been otherwise amended or modified (41 FR 56297).

In view of the adverse impact on large segments of participants, questions about the adequacy of the rulemaking process itself, and other consideration, the Department has determined that prompt rescission of the amendments published May 7, 1976, from a technically pending status will facilitate the present review and development of food stamp policy and regulations. It has further been determined that notice of proposed rulemaking is in this instance unnecessary and contrary to the public interest.

The amendments to Parts 270 and 271 of the regulations governing the Food Stamp Program published in the FEDERAL REGISTER of May 7, 1976 (41 FR 18781-18804), are hereby rescinded. Except as they have been or may be otherwise amended or modified, the Food Stamp Program shall be governed by the regulations in effect on May 6, 1976.

Dated: February 2, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-3845 Filed 2-3-77;8:45 am]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 723—CIGAR-FILLER (TYPE 41) AND MARYLAND TOBACCO

Subpart—Proclamations, Determinations and Announcements of National Marketing Quotas and Referendum Results

PROCLAMATION OF QUOTAS—1977-78, 1978-79 AND 1979-80 MARKETING YEARS AND DETERMINATIONS AND ANNOUNCEMENTS 1977-78 MARKETING YEAR—CIGAR-FILLER (TYPE 41) AND MARYLAND TOBACCO

Basis and purpose. Sections 723.1 and 723.2 are issued pursuant to, and in accordance with, the Agricultural Adjustment Act of 1938, as amended, hereinafter referred to as the "Act", to proclaim national marketing quotas for cigar-filler (type 41) and Maryland tobacco for each of the three marketing years beginning October 1, 1977, October 1, 1978, and October 1, 1979. Sections 723.11 and 723.12 are also issued pursuant to the Act to determine the reserve supply level and the total supply of each kind of tobacco for the marketing year beginning October 1, 1976, to announce for the 1977-78 marketing year the amounts of the national marketing quotas, national acreage allotments, national acreage factors for apportioning the national acreage allotments (less reserve) to old farms, and the amounts of the national reserves and parts thereof available for (a) new farms and (b) making corrections and adjusting inequities in old farm allotments for such kinds of tobacco. The material previously appearing in these sections under centerheads Proclamation of Quotas and Determinations and Announcements—1974-75 Marketing Year remain in full force and effect for the crops to which it was applicable.

The determinations contained in §§ 723.11 and 723.12 have been made on the basis of the latest available statistics

of the Federal Government, and after due consideration of data, views, and recommendations received from cigar-filler (type 41) and Maryland tobacco producers and others as provided in a notice (41 FR 55549) given in accordance with the provisions of 5 U.S.C. 553.

No recommendations on the amount of the 1977 quota for either tobacco were received. The determinations with respect to the referendums are being set forth in a separate notice which shall deal with the comments and recommendations pertaining to the referendums.

Since the Act requires the holding of separate referendums of cigar-filler (type 41) and Maryland tobacco producers within 30 days after issuance of the proclamation of national marketing quotas for such kinds of tobacco to determine whether such producers favor marketing quotas, since such farmers must be notified, insofar as practicable, of their farm acreage allotments prior to the referenda and since notices of allotments cannot be mailed until the issuance of the proclamations herein, it is hereby found that compliance with the notice of proposed rule making and public participation procedure in 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this revision is issued without following such procedure.

Section 312(b) of the Act provides, in part, that the amount of the national marketing quota is the total quantity of a kind of tobacco which may be marketed which will make available during such marketing year a supply of such tobacco equal to the reserve supply level. The amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

The reserve supply level is defined in the Act as 105 percent of the normal supply. The normal supply is defined in the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports. A normal year's domestic consumption is defined in the Act as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A normal year's exports is defined in the Act as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

CIGAR-FILLER (TYPE 41) TOBACCO

The yearly average quantity of cigar-filler (type 41) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years preceding the 1976–77 marketing year was about 36.4 million pounds. The average annual quantity of cigar-filler (type 41) tobacco produced in the United States and exported from the United States during the 10 marketing years preceding the 1976–77 marketing year was 0.6 million pounds (farm-sales weight basis). Since both domestic use and exports have been trending downward during the 10-year period, 25.7 million pounds have been used as a normal year's domestic consumption and 0.4 million pounds have been used as a normal year's exports. Application of the formula prescribed by the Act results in a reserve supply level of 75.0 million pounds.

Manufacturers and dealers reported stocks of cigar-filler (type 41) tobacco held on October 1, 1976, as 46.8 million pounds. The 1976 cigar-filler (type 41) tobacco crop is estimated to be 23.1 million pounds. Therefore, the total supply of cigar-filler (type 41) tobacco for the 1976–77 marketing year is 69.9 million pounds. During the 1976–77 marketing year, it is estimated that disappearance will total about 22.5 million pounds. By deducting this disappearance from the total supply, a carryover of 47.4 million pounds for the 1977–78 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1977, results in a national marketing quota for the 1977–78 marketing year of 27.6 million pounds.

In accordance with section 313(g) of the Act, the 1977 national marketing quota, divided by the 1972–76, 5-year national average yield of 1,720 pounds per acre, results in a 1977 national acreage allotment of 16,046.51 acres.

Pursuant to the provisions of section 313(g), a national acreage factor of 1.00 is determined by dividing the national acreage allotment less a national reserve of 160.00 acres, by the total of the 1977 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) for apportioning the national acreage allotment, less reserve, to old farms.

MARYLAND TOBACCO

The yearly average quantity of Maryland tobacco produced in the United States which is estimated to have been consumed in the United States during the ten years preceding the 1976–77 marketing year was about 23.4 million pounds. The average annual quantity of Maryland tobacco produced in the United States and exported during the 10 marketing years preceding the 1976–77 marketing year was 11.7 million pounds (farm-sale weight basis). Domestic consumption is very erratic, while exports have trended downward. With this in mind, 22.0 million pounds has been used as a normal year's domestic consumption and 7.6 million pounds has been used as a normal year's exports. Application of the formula prescribed by the Act results in a reserve supply level of 76.7 million pounds.

Carryover stocks of Maryland tobacco in the hands of manufacturers and dealers on January 1, 1977, are estimated to be 39.6 million pounds. The 1976 Maryland tobacco crop is estimated to be 28.8 million pounds. Therefore, the total supply of Maryland tobacco for the 1976–77 marketing year is 68.4 million pounds. During the 1976–77 marketing year, it is estimated that disappearance will total about 30.0 million pounds. By deducting this disappearance from the total supply, a carryover of 38.4 million pounds for the 1977–78 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover for the 1976–77 marketing year, results in a national marketing quota for the 1977–78 marketing year of 38.3 million pounds.

In accordance with section 313(g) of the Act, the 1977 national marketing quota, divided by the 1972–76, 5-year national average yield of 1,144 pounds per acre, results in a 1977 national acreage allotment of 33,479.02 acres.

Pursuant to the provisions of section 313(g), a national acreage factor of 1.0 is determined by dividing the national acreage allotment less a national reserve of 110.00 acres, by the total of the 1977 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) for apportioning the national acreage allotment, less reserve, to old farms.

7 CFR Part 723 is amended as follows:

1. Sections 723.1 and 723.2 and the preceding centerhead are revised to read as follows:

PROCLAMATION OF QUOTAS

Sec.

723.1 Cigar-filler (type 41) tobacco—1977–78, 1978–79, and 1979–80 marketing years.

723.2 Maryland tobacco—1977–78, 1978–79, and 1979–80 marketing years.

AUTHORITY: Secs. 301, 312, 313, 375, 52 Stat. 38, as amended, 46, as amended, 47, as amended, 66, as amended (7 U.S.C. 1301, 1312, 1313, 1375).

PROCLAMATION OF QUOTAS

§ 723.1 Cigar-filler (type 41) tobacco—1977–78, 1978–79, and 1979–80 marketing years.

Since the 1976–77 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed were disapproved by producers of cigar-filler (type 41) tobacco in a referendum, and since producers of such kind of tobacco had disapproved national marketing quotas on such kind of tobacco in referenda held in 3 successive years subsequent to 1952, section 312(a)(4) of the Act requires the proclamation of a national marketing quota for each of the three marketing years beginning October 1, 1977, October 1, 1978, and October 1, 1979; and each such quota is hereby proclaimed.

§ 723.2 Maryland tobacco—1977–78, 1978–79, and 1979–80 marketing years.

Since the 1976–77 marketing year is the last of three consecutive years for which marketing quotas previously pro-

claimed were disapproved by producers of Maryland tobacco in a referendum, and since producers of such kind of tobacco had disapproved national marketing quotas on such kind of tobacco in referenda held in three successive years subsequent to 1952, section 312(a) of the Act requires the proclamation of a national marketing quota for each of the three marketing years beginning October 1, 1977, October 1, 1978, and October 1, 1979; and each such quota is hereby proclaimed.

2. Sections 723.11 and 723.12 and the preceding centerhead are revised to read as follows:

DETERMINATIONS AND ANNOUNCEMENTS—1977–78 MARKETING YEAR

Sec.
723.11 Cigar-filler tobacco.
723.12 Maryland tobacco.

AUTHORITY: Secs. 301, 312, 313, 375, 52 Stat. 38, as amended, 46, as amended 47, as amended, 66, as amended, (7 U.S.C. 1301, 1312, 1313, 1375).

DETERMINATIONS AND ANNOUNCEMENTS—1977–78 MARKETING YEAR

§ 723.11 Cigar-filler tobacco.

(a) *Reserve supply level.*[1] The reserve supply level for cigar-filler (type 41) tobacco is 75.0 million pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 25.7 million pounds and a normal year's exports of 0.4 million pounds.

(b) *Total supply.*[1] The total supply of cigar-filler (type 41) tobacco for the marketing year beginning October 1, 1976, calculated in accordance with the Act, is 69.9 million pounds, consisting of carryover of 46.8 million pounds and estimated 1976 production of 23.1 million pounds.

(c) *Carryover.*[1] The estimated carryover of cigar-filler (type 41) tobacco for the marketing year beginning October 1, 1977, is 47.4 million pounds, calculated in accordance with the Act by subtracting the estimated disappearance for the marketing year beginning October 1, 1976, of 22.5 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of cigar-filler (type 41) tobacco which will make available during the marketing year beginning October 1, 1977, a supply of cigar-filler (type 41) tobacco equal to the reserve supply level of such tobacco is 27.6 million pounds, and a national marketing quota of such amount is hereby announced.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1977–78 marketing year by the 5-year, 1972–76, national average yield of 1,720 pounds, is 16,046.51 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1977–78 marketing year is 1.00. It was calculated in accordance with the Act by dividing the national acreage allotment, less reserve, by the total of the preliminary allotments for 1977 old farms.

(g) *National reserve.* The national acreage reserve is 160.00 acres, of which 25.00 acres are made available for 1977 new farms, and 135.00 acres are made available for making corrections and adjusting inequities in old farm allotments.

§ 723.12 Maryland tobacco.

(a) *Reserve supply level.*[1] The reserve supply level for Maryland tobacco is 76.7 million pounds, calculated as provided in the Act, from a normal year's domestic consumption of 22.0 million pounds and a normal year's exports of 7.6 million pounds.

(b) *Total supply.*[1] The total supply of Maryland tobacco for the marketing year beginning October 1, 1976, calculated in accordance with the Act, is 68.4 million pounds consisting of estimated carryover of 39.6 million pounds and estimated 1976 production of 28.8 million pounds.

(c) *Carryover.*[1] The estimated carryover of Maryland tobacco for the 1977–78 marketing year is 38.4 million pounds, calculated in accordance with the Act by subtracting the estimated disappearance of 30.0 million pounds for the 1976–77 marketing year from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of Maryland tobacco which will make available during the 1977–78 marketing year, a supply of Maryland tobacco equal to the reserve supply level of such tobacco is 38.3 million pounds, and a national marketing quota of such amount is hereby announced.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1977–78 marketing year by the 5-year, 1972–76 national average yield of 1,144 pounds, is 33,479.02 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1977–78 marketing year is 1.00. It was calculated in accordance with the Act by dividing the national acreage allotment less reserve, by the total of the 1977 preliminary allotments for 1977 old farms.

(g) *National reserve.* The national acreage reserve is 110.00 acres, of which 20.00 acres are made available for 1977 new farms, and 90.00 acres are made available for making corrections and adjusting inequities in old farm allotments.

NOTE.—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: February 1, 1977.

Signed at Washington, D.C., on January 31, 1977.

SEELEY G. LODWICK,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-3471 Filed 2-1-77;10:10 am]

[1] Rounded to the nearest tenth of a million pounds.

PART 724—FIRE CURED, DARK AIR CURED, VIRGINIA SUN CURED, CIGAR BINDER (TYPES 51 & 52), AND CIGAR FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, & 55) TOBACCO

Subpart—Proclamations, Determinations and Announcements of National Marketing Quotas and Referendum Results

1977 NATIONAL MARKETING QUOTAS, DETERMINATIONS, AND ANNOUNCEMENTS—OTHER TOBACCO

Basis and purpose. Section 724.5 is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, hereinafter referred to as the "Act", to proclaim national marketing quotas for Virginia sun-cured tobacco for the three marketing years beginning October 1, 1977, October 1, 1978, and October 1, 1979. Sections 724.12 through 724.17 are issued pursuant to and in accordance with the Act to determine the reserve supply level and the total supply of fire-cured, dark air-cured, Virginia sun-cured, cigar-binder, and cigar-filler and binder tobacco for the marketing year beginning October 1, 1976, and to announce for the 1977–78 marketing year the amounts of the national marketing quotas, national acreage allotments, national acreage factor for apportioning the national acreage allotments (less reserves) to old farms, and the amounts of the national reserves and parts thereof available for (a) new farms and (b) making corrections and adjusting inequities in old farm allotments for fire-cured (type 21), fire-cured (type 22–24), dark air-cured, Virginia sun-cured, cigar-binder, and cigar-filler and binder tobacco. The material previously appearing in these sections under centerheads PROCLAMATIONS OF QUOTAS and DETERMINATIONS AND ANNOUNCEMENTS—1976–77 MARKETING YEAR remains in full force and effect as to the crops to which it was applicable.

The determinations contained in §§ 724.12 through 724.17 have been made on the basis of the latest available statistics of the Federal Government and after due consideration of data, views, and recommendations received from tobacco producers and others pursuant to a notice (41 FR 55550) given in accordance with the provisions of 5 U.S.C. 553.

All comments received on the quotas for these kinds of tobacco recommended that they not be changing from their 1976 levels. The determinations with respect to the referendum for Virginia sun-cured tobacco are being set forth in a separate notice which shall deal with the comments and recommendations pertaining to the referendum.

It is determined that acreage-poundage quotas will not be announced for the 1977–78 marketing year for any of these kinds of tobacco.

Since the Act requires the holding of a referendum of Virginia sun-cured tobacco farmers within 30 days after issuance of the proclamation of the national marketing quota to determine whether such farmers favor the marketing quota, since such farmers must be

notified (insofar as practicable) of their farm acreage allotments prior to the referendums, and since tobacco farmers are now making their plans for producing tobacco in 1977 and need to know, at the earliest possible date, the applicable 1977 tobacco allotments for their farms, it is hereby found that compliance with the notice of proposed rule making and public participation procedure in 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this revision is issued without following such procedure.

Section 312(b) of the Act provides, in part, that the amount of the national marketing quota is the total quantity of a kind of tobacco which may be marketed which will make available during such marketing year a supply of such tobacco equal to the reserve supply level. The amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 percent if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

The reserve supply level is defined in section 301 of the Act as 105 percent of the normal supply. The normal supply is defined as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports. A normal year's domestic consumption is defined as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A normal year's exports is defined as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

FIRE-CURED (TYPE 21) TOBACCO

The yearly average quantity of fire-cured (type 21) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 marketing years immediately preceding the 1976–77 marketing year was about 2.1 million pounds. The average annual quantity of fire-cured (type 21) tobacco produced in the United States and exported from the United States during the 10 marketing years immediately preceding the 1976–77 marketing year was 4.9 million pounds (farm-sales weight basis). In order to make adjustments for current tends, and taking into account the irregular pattern of both domestic use and exports and the market demand for the various grades, 2.8 million pounds have been used as a normal year's domestic consumption and 5.5 million pounds have been used as a normal year's exports. Application of the formula prescribed by the Act results in a reserve supply level of 17.6 million pounds.

Manufacturers and dealers reported stocks of fire-cured (type 21) tobacco held on October 1, 1976, as 7.4 million pounds. The 1976 crop is estimated to be 5.3 million pounds. Therefore, the total supply for the 1976–77 marketing year is 12.7 million pounds. During the 1976–77 marketing year, it is estimated that disappearance will total about 5.0 million pounds. By deducting this disappearance from the total supply, a carryover of 7.7 million pounds for the 1977–78 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1977, results in a computed national marketing quota for the 1977–78 marketing year of 9.9 million pounds. Use of the authority of the Secretary in section 312(b) of the Act to increase the computed quota by 20 percent to 11.9 million pounds is deemed to be justified in order to avoid undue restrictions of marketings. This results in a national marketing quota of 11.9 million pounds.

In accordance with section 313(g) of the Act, the 1977 national marketing quota, divided by the 1972–76, 5-year national average yield of 1,065 pounds per acre, results in a 1977 national acreage allotment of 11,173.71 acres.

Pursuant to the provisions of section 313(g), a national acreage factor of 1.00 is determined by dividing the national acreage allotment, less a national reserve of 55.00 acres, by the total of the 1977 preliminary farm acreage allotment. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) for apportioning the national acreage allotment, less reserve, to old farms.

FIRE-CURED (TYPES 22–24) TABACCO

The yearly average quantity of fire-cured (types 22–24) tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1976–77 marketing year was about 15.8 million pounds. The average annual quantity of fire-cured (types 22–24) tobacco produced in the United States and exported during the 10 marketing years preceding the 1976–77 marketing year was 22.5 million pounds (farm-sales weight basis). Both domestic use and exports of fire-cured (types 22–24) tobacco are very irregular. Accordingly, in order to make adjustments for current trends, in accordance with the Act a normal year's domestic consumption has been set at 18.0 million pounds and a normal year's exports at 24.5 million pounds. Application of the formula prescribed by the Act results in a reserve supply level of 94.4 million pounds.

Manufacturers and dealers reported stocks of fire-cured (types 22–24) tobacco held on October 1, 1976, as 42.6 million pounds. The 1976 crop is estimated to be 35.9 million pounds. Therefore, the total supply for the marketing year beginning October 1, 1976, is 78.5 million pounds. During the 1976–77 marketing year it is estimated that disappearance will total about 31.0 million pounds. By deducting this disappearance from the total supply, a carryover of 47.5 million pounds for the 1977–78 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1977, results in a computed national marketing quota for the 1977–78 marketing year of 46.9 million pounds. Use of the authority of the Secretary in Section 312(b) of the Act to increase the computed quota by 20 percent to 56.3 million pounds is deemed to be justified in order to avoid undue restrictions of marketings. This results in a national marketing quota of 56.3 million pounds.

In accordance with Section 313(g) of the Act, the 1977 national marketing quota, divided by the 1972–76, 5-year national average yield of 1,720 pounds per acre, results in the 1977 national acreage allotment of 32,732.56 acres.

Pursuant to the provisions of Section 313(g), a national acreage factor of 1.000 is determined by dividing the national acreage allotment, less a national reserve of 180.00 acres, by the total of the 1977 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in Section 313(g) for apportioning the national acreage allotments, less reserve, to old farms.

DARK AIR-CURED TOBACCO

The yearly average quantity of dark air-cured tobacco produced in the United States which is estimated to have been consumed in the United States during the 10 years preceding the 1976–77 marketing year was about 16.3 million pounds, and the average annual quantity produced domestically and exported during this period was 2.7 million pounds (farm-sales weight basis). Total disappearance of dark air-cured tobacco has been trending downward for many years. Therefore, in order to make adjustments for current trends, in accordance with the Act, 15.8 million pounds has been used as a normal year's domestic consumption and 2.2 million pounds as a normal year's exports. Application of the formula prescribed by the Act results in a reserve supply level of 49.4 million pounds.

Manufacturers and dealers reported stocks of dark air-cured tobacco held on October 1, 1976, as 28.2 million pounds. The 1976 crop is estimated to be 16.2 million pounds. Therefore, the total supply for the marketing year, beginning October 1, 1976, is 44.4 million pounds. During the 1976–77 marketing year, it is estimated that disappearance will total about 18.0 million pounds. By deducting this disappearance from the total supply, a carryover of 26.4 million pounds for the 1977–78 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1977, results in a computed national marketing quota for the 1977–78 marketing year of 23.0 million pounds.

In accordance with section 313(g) of the Act, the 1977 national marketing quota, divided by the 1972–76, 5-year national average yield of 1,740 pounds per acre, results in a 1977 national acreage allotment of 13,218.39 acres.

Pursuant to the provisions of section 313(g), a national acreage factor of 1.10 is determined by dividing the national acreage allotment less a national reserve of 90.00 acres, by the total of the 1977 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) for apportioning the national acreage allotment, less reserve, to old farms.

VIRGINIA SUN-CURED TOBACCO

The yearly average quantity of Virginia sun-cured tobacco produced in the United States which is estimated to have been consumed in the United States during the ten marketing years preceding the 1976–77 marketing year was about 1,051 thousand pounds, and the average annual quantity produced in the United States and exported during the same period was 257 thousand pounds (farm-sales weight basis). While there has been a downward trend in exports and domestic use during the base period, total disappearance has exceeded production during 9 years of the 10-year period. Farms are producing only about 42 percent of the allotted acreage and disappearance has declined because of inadequate supplies. With this in mind, in order to make adjustments for current trends, in accordance with the Act, 1,160 thousand pounds have been used as a normal year's domestic consumption and 202 thousand pounds as a normal year's exports. Application of the formula prescribed by the Act results in a reserve supply level of 3,699 thousand pounds.

Manufacturers and dealers reported stocks of Virginia sun-cured tobacco held on October 1, 1976, as 2,072 thousand pounds. The 1976 crop is estimated to be 748 thousand pounds. Therefore, the total supply for the 1976–77 marketing year is 2,820 thousand pounds. During the 1976–77 marketing year, it is estimated that disappearance will total about 900 thousand pounds. By deducting this disappearance from the total supply, a carryover of 1,920 thousand pounds for the 1977–78 marketing year, is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1977 results in a computed national marketing quota for the 1976–77 marketing year of 1,779 thousand pounds.

In accordance with section 313(g) of the Act, the 1977 national marketing quota, divided by the 1972–76, 5-year national average yield of 1,129 pounds per acre, results in a 1977 national acreage allotment of 1,575.73 acres.

Pursuant to the provisions of section 313(g), a national acreage factor of 1.00 is determined by dividing the national acreage allotment, less a national reserve of 15.00 acres, by the total of the 1977 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) for apportioning the national acreage allotment, less reserve, to old farms.

CIGAR-BINDER (TYPES 51 & 52) TOBACCO

The yearly average quantity of cigar-binder (types 51 & 52) tobacco produced in the United States which is estimated to have been consumed in the United States during the ten years preceding the 1976–77 marketing year was about 3.7 million pounds. The average annual quantity of cigar-binder tobacco produced in the United States and exported from the United States during the ten marketing years preceding the 1976–77 marketing year was 0.6 million pounds (farm-sales weight basis). Recent trends in domestic consumption have been up, while long term trends in exports have been down. Accordingly, a normal year's domestic consumption has been set at 3.8 million pounds and a normal year's exports has been set at 0.4 million pounds. Application of the formula prescribed by the Act results in a reserve supply level of 11.7 million pounds.

Manufacturers and dealers reported stocks of cigar-binder tobacco held on October 1, 1976, as 4.2 million pounds. The 1976 crop is estimated to be 2.7 million pounds. Therefore, the total supply for the 1976–77 marketing year is 6.9 million pounds. During the 1976–77 marketing year, it is estimated that disappearance will total about 3.3 million pounds. By deducting the estimated disappearance during the 1976–77 marketing year from the total supply, a carryover of 3.6 million pounds at the beginning of the 1977–78 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1977, results in a computed national marketing quota for the 1977–78 marketing year of 8.1 million pounds.

In accordance with section 313(g) of the Act, the 1977 national marketing quota of 8.1 million pounds, divided by the 1972–76, 5-year national average yield of 1,676 pounds per acre, results in a 1977 national acreage allotment of 4,832.94 acres.

Pursuant to the provisions of section 313(g), a national acreage factor of 1.00 is determined by dividing the national acreage allotment, less a national reserve of 42.00 acres, by the total of the 1977 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) for apportioning the national allotment, less reserve, to old farms.

CIGAR-FILLER AND BINDER TOBACCO

The yearly average quantity of cigar-filler and binder tobacco produced in the United States which is estimated to have been consumed in the United States during the ten years preceding the 1976–77 marketing year was about 23.4 million pounds. The average annual quantity of cigar-filler and binder tobacco produced in the United States and exported from the United States during the ten marketing years preceding the 1976–77 marketing year was 0.2 million pounds (farm-sales weight basis). Domestic consumption is very erratic, while exports have trended downward. Accordingly, a normal year's domestic consumption has been set at 25.3 million pounds and a normal year's exports at 0.1 million pounds. Application of the formula prescribed by the Act, results in a reserve supply level of 73.3 million pounds.

Manufacturers and dealers reported stocks of cigar-filler and binder tobacco held on October 1, 1976, as 44.9 million pounds. The 1976 crop is estimated to be 21.4 million pounds. Therefore, the total supply for the 1976–77 marketing year is 66.3 million pounds. During the 1976–77 marketing year, it is estimated that disappearance will total about 22.0 million pounds. By deducting this disappearance from the total supply, a carryover of 44.3 million pounds at the beginning of the 1977–78 marketing year is obtained.

The difference between the reserve supply level and the estimated carryover on October 1, 1977, results in a preliminary national marketing quota for the 1977–78 marketing year of 29.0 million pounds. Use of the authority of the Secretary in section 312(b) of the Act to increase the computed quota by 20 percent to 34.8 million pounds is deemed to be justified in order to avoid undue restrictions of marketings. This results in a national marketing quota of 34.8 million pounds.

In accordance with section 313(g) of the Act, the 1977 national marketing quota of 34.8 million pounds, divided by the 1972–76, 5-year national average yield of 1,783 pounds per acre, results in the 1977 national acreage allotment of 19,517.67 acres.

Pursuant to the provisions of section 313(g), a national acreage factor of 1.000 is determined by dividing the national acreage allotment, less a national reserve of 165.00 acres, by the total of the 1977 preliminary farm acreage allotments. The preliminary farm acreage allotments reflect the factors specified in section 313(g) for apportioning the national acreage allotment, less reserve, to old farms.

7 CFR Part 724, Subpart—Proclamations, Determinations and Announcements of National Marketing Quotas and Referendum Results is amended as follows:

1. Section 724.5 is revised to read as follows:

§ 724.5 Virginia Sun-Cured tobacco (Type 37)—1977–78, 1978–79, and 1979–80 Marketing Years.

Since the 1976–77 marketing year is the last of three consecutive years for which marketing quotas previously proclaimed will be in effect for Virginia Sun-Cured (type 37) tobacco, a national marketing quota for such kind of tobacco for each of the three marketing years beginning October 1, 1977, Octo-

ber 1, 1978, and October 1, 1979, is hereby proclaimed.

2. Sections 724.12 through 724.17 and the preceding centerhead are revised to read as follows:

DETERMINATIONS AND ANNOUNCEMENTS—1977–78 MARKETING YEARS

Sec.
724.12 Fire-cured (type 21) tobacco.
724.13 Fire-cured (types 22–24) tobacco.
724.14 Dark air-cured tobacco.
724.15 Virginia sun-cured tobacco.
724.16 Cigar binder (type 51 & 52) tobacco.
724.17 Cigar-filler and binder (types 42–44, 53–55) tobacco.

AUTHORITY: Secs. 301, 312, 313, 375, 52 Stat. 38, as amended, (7 U.S.C. 1301, 1312, 1313, 1375).

§ 724.12 Fire-Cured (type 21) tobacco [1]

(a) *Reserve supply level.*[1] The reserve supply level for fire-cured (type 21) tobacco is 17.6 million pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 2.8 million pounds and a normal year's exports of 5.5 million pounds.

(b) *Total supply.*[1] The total supply of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1976, is 12.7 million pounds, calculated in accordance with the Act from a carryover of 7.4 million pounds and estimated 1976 production of 5.3 million pounds.

(c) *Carryover.*[1] The estimated carryover of fire-cured (type 21) tobacco for the marketing year beginning October 1, 1977, is 7.7 million pounds, calculated (in accordance with the Act) by subtracting the estimated disappearance for the marketing year beginning October 1, 1976, of 5.0 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of fire-cured (type 21) tobacco which will make available during the marketing year beginning October 1, 1977, a supply equal to the reserve supply level of such tobacco is 9.9 million pounds, and a national marketing quota of such amount is hereby announced. It is determined however, that a national marketing quota in the amount of 9.9 million pounds would result in undue restriction of marketings during the 1977–78 marketing year and such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for fire-cured (type 21) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1977, is 11.9 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1977–78 marketing year by the 5-year 1972–76 national average yield of 1,065 pounds is 11,173.71 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments is 1.0. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1977 old farms.

(g) *National reserve.* The national acreage reserve is 55.0 acres, of which 10.00 acres are made available for 1977 new farms, and 45.00 acres are made available for making corrections and adjusting inequities in old farm allotments.

[1] Rounded to the nearest tenth of a million.

§ 724.13 Fire-Cured (types 22–24) tobacco.

(a) *Reserve supply level.*[1] The reserve supply level for fire-cured (types 22–24) tobacco is 94.4 million pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 18.0 million pounds and a normal year's exports of 24.5 million pounds.

(b) *Total supply.*[1] The total supply of fire-cured (types 22–24) tobacco for the marketing year beginning October 1, 1976, is 78.5 million pounds, calculated in accordance with the Act, from a carryover of 42.6 million pounds and estimated 1976 production of 35.9 million pounds.

(c) *Carryover.*[1] The estimated carryover of fire-cured tobacco (types 22–24) for the marketing year beginning October 1, 1976, is 47.5 million pounds, calculated in accordance with the Act by subtracting the estimated disappearance for the marketing year beginning October 1, 1976, of 31.0 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of fire-cured (types 22–24) tobacco which make available during the marketing year beginning October 1, 1977, a supply equal to the reserve supply level of such tobacco is 46.9 million pounds, and a national marketing quota of such amount is hereby announced. It is determined, however, that a national marketing quota in the amount of 46.9 million pounds would result in undue restriction of marketings during the 1977–78 marketing year and such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for fire-cured (types 22–24) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1977, is 56.3 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1977–78 marketing year by the 5-year 1972–76 national average yield of 1,720 pounds is 32,732.56 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1977–78 marketing year is 1.000. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1977 old farms.

(g) *National reserve.* The national acreage reserve is 180.00 acres, of which 15.00 acres are made available for 1977 new farms and 165.00 acres are made available for making corrections and adjusting inequities in old farm allotments.

§ 724.14 Dark air-cured tobacco.

(a) *Reserve supply level.*[1] The reserve supply level for dark air-cured tobacco is 49.4 million pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 15.8 million pounds and a normal year's exports of 2.2 million pounds.

(b) *Total supply.*[1] The total supply of dark air-cured tobacco for the marketing year beginning October 1, 1976, is 44.4 million pounds calculated in accordance with the Act, from a carryover of 28.2 million pounds and estimated 1976 production of 16.2 million pounds.

(c) *Carryover.*[1] The estimated carryover of dark air-cured tobacco for the marketing year beginning October 1, 1977, is 26.4 million pounds, calculated in accordance with the Act by subtracting the estimated disappearance for the marketing year beginning October 1, 1976, of 18.0 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of dark air-cured tobacco which will make available during the marketing year beginning October 1, 1977, a supply equal to the reserve supply level of such tobacco is 23.0 million pounds, and a national marketing quota of such amount is hereby announced.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1977–78 marketing year by the 5-year, 1972–76, national average yield of 1,740 pounds, is 13,218.39 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1977–78 marketing year is 1.100. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotments for 1977 old farms.

(g) *National reserve.* The national acreage reserve is 90.00 acres, of which 15.00 acres are made available for 1977 new farms, and 75.00 acres are made available for making corrections and adjusting inequities in old farm allotments.

§ 724.15 Virginia sun-cured tobacco.

(a) *Reserve supply level.*[2] The reserve supply level for Virginia sun-cured tobacco is 3,699 thousand pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 1,160 thousand pounds and a normal year's export of 202 thousand pounds.

(b) *Total supply.*[2] The total supply of Virginia sun-cured tobacco for the marketing year beginning October 1, 1976, calculated in accordance with the Act, is 2,820 thousand pounds, consisting of carryover of 2,072 thousand pounds and estimated 1976 production of 748 thousand pounds.

[2] Rounded to the nearest thousand pounds.

(c) *Carryover.*[2] The estimated carryover of Virginia sun-cured tobacco for the marketing year beginning October 1, 1977, is 1,920 thousand pounds, calculated in accordance with the Act by subtracting the estimated disappearance for the marketing year beginning October 1, 1976, of 900 thousand pounds from the total supply of such tobacco.

(d) *National marketing quota.*[2] The amount of Virginia sun-cured tobacco which will make available during the marketing year beginning October 1, 1977, a supply equal to the reserve supply level of such tobacco is 1,779 thousand pounds, and a national marketing quota of such amount is hereby announced.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1977–78 marketing year by the 5-year, 1972–76, national average yield of 1,129 pounds, is 1,575.73 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1977–78 marketing year is 1.00. It was calculated in accordance with the Act by dividing the national acreage allotment, less reserve, by the total of the preliminary allotments for 1977 old farms.

(g) *National reserve.* The national acreage reserve is 15.00 acres, of which 5.00 acres are made available for 1977 new farms, and 10.00 acres are made available for making corrections and adjusting inequities in old farm allotments.

§ 724.16 Cigar binder (type 51 & 52) tobacco.

(a) *Reserve supply level.*[1] The reserve supply level for cigar-binder (types 51 & 52) tobacco is 11.7 million pounds calculated as provided by the Act, from a normal year's domestic consumption of 3.8 million pounds and a normal year's exports of 0.4 million pounds.

(b) *Total supply.*[1] The total supply of cigar-binder (types 51 & 52) tobacco for the marketing year beginning October 1, 1976, is 6.9 million pounds, calculated in accordance with the Act from a carryover of 4.2 million pounds and estimated 1976 production of 2.7 million pounds.

(c) *Carryover.*[1] The estimated carryover of cigar-binder (types 51 & 52) tobacco for the marketing year beginning October 1, 1977, is 3.6 million pounds, calculated in accordance with the Act from a total supply of 6.9 million pounds and estimated 1976 disappearance of 3.3 million pounds.

(d) *National marketing quota.*[1] The amount of cigar-binder (types 51 & 52) tobacco which will make available during the marketing year beginning October 1, 1977, a supply equal to the reserve supply level of such tobacco is 8.1 million pounds, and a national marketing quota of such amount is hereby announced.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1977–78 marketing year by the 5-year, 1972–76 national average yield of 1,676 pounds is 4,832.94 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1977–78 marketing year is 1.000. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve, by the total of the preliminary allotment for the 1977 old farms.

(g) *National reserve.* The national acreage reserve is 42.00 acres all of which are made available for making corrections and adjusting inequities in old farm allotments.

§ 724.17 Cigar-filler and binder (types 42–44, 53–55) tobacco.

(a) *Reserve supply level.*[1] The reserve supply level for cigar-filler and binder (types 42–44, 53–55) tobacco is 73.3 million pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 25.3 million pounds and a normal year's exports of 0.1 million pounds.

(b) *Total supply.*[1] The total supply of cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1976, is 66.3 million pounds calculated in accordance with the Act, from a carryover of 44.9 million pounds and estimated 1976 production of 21.4 million pounds.

(c) *Carryover.*[1] The estimated carryover of cigar-filler and binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1977, is 44.3 million pounds, calculated in accordance with the Act, by subtracting the estimated disappearance for the marketing year beginning October 1, 1976, of 22.0 million pounds from the total supply of such tobacco.

(d) *National Marketing Quota.*[1] The amount of cigar-filler and binder (types 42–44, 53–55) tobacco which will make available during the marketing year beginning October 1, 1977, a supply equal to the reserve supply level of such tobacco is 29.0 million pounds, and a national marketing quota of such amount is hereby announced. It is determined, however, that a national marketing quota in the amount of 29.0 million pounds would result in undue restriction of marketings during the 1977–78 marketing year and such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for cigar-filler and binder (types 42–44, & 53–55) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1977, is 34.8 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act, by dividing the national marketing quota for the 1977–78 marketing year by the 5-year, 1972–76 national average yield of 1,783 pounds, is 19,517.67 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1977–78 marketing year is 1.000. It was calculated in accordance with the Act by dividing the national acreage allotment, less the national reserve by the total of the preliminary allotments for the 1977 old farms.

(g) *National reserve.* The national acreage reserve is 165.00 acres, of which 135.00 acres are made available for 1977 new farms, and 30.00 acres are made available for making corrections and adjusting inequities in old farm allotments.

NOTE.—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: February 1, 1977.

Signed at Washington, D.C., on January 31, 1977.

SEELEY G. LODWICK,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-3470 Filed 2-1-77;10:10 am]

PART 726—BURLEY TOBACCO

Subpart—Proclamations, Determinations and Announcements of National Marketing Quotas and Referendum Results

PROCLAMATION OF QUOTAS 1977–78, 1978–79, AND 1979–80 MARKETING YEARS AND DETERMINATIONS AND ANNOUNCEMENTS, 1977–78 MARKETING YEAR—BURLEY TOBACCO

Basis and purpose. Section 726.1 is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, hereinafter referred to as the "Act" to proclaim national marketing quotas for burley tobacco for the 1977–78, 1978–79 and 1979–80 marketing years. Section 726.11 is issued pursuant to the Act, to determine and announce for burley tobacco the amounts of the national marketing quota and the national reserve, and the national factor for the 1977–78 marketing year. The material previously appearing in these sections under centerheads Proclamation of Quotas and Determination and Announcements—1976–77 Marketing Year remains in full force and effect as to the crop to which it was applicable.

Since the 1976–77 marketing year is the last of three consecutive years for which marketing quotas previously proclaimed on a poundage basis will be in effect, Section 319(b) of the Act provides that the Secretary shall proclaim marketing quotas for burley tobacco on a poundage basis.

The determinations by the Secretary contained in §§ 726.1 and 726.11 have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from burley tobacco producers and others pursuant to a notice (41 FR 55551) given in accordance with the provision of 5 U.S.C. 553.

All recommendations received on the amount of the national marketing quota for burley tobacco for the 1977–78 marketing year suggested no change be made in the present quota. The determinations with respect to the referendum are being set forth in a separate notice which shall deal with the comments and recommendations pertaining to the referendum.

Section 319(c) of the Act provides that the national marketing quota determined under such section for burley tobacco for any marketing year shall be the amount produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 5 percent of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect under this section, the Secretary in his discretion may establish a reserve (hereinafter referred to as the "national reserve") from the national marketing quota in an amount not in excess of 1 percent of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms.

Section 319(e) provides, in part, that the 1977 farm marketing quota shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined for 1977: *Provided*, That such national factor shall not be less than 95 percent.

The reserve supply level is defined in the Act as 105 percent of the normal supply. The normal supply is defined in the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports. A normal year's domestic consumption is defined in the Act as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A normal year's exports is defined in the Act as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The reserve supply level is 1,718 million pounds, based on a normal year's domestic consumption of 535 million pounds and a normal year's exports on 100 million pounds. The average domestic usage for the past 10 marketing years amount to 523 million pounds. With increasing cigarette production, domestic use is expected to exceed this level during the 1977–78 marketing year. The 10-year average exports amounted to 65 million pounds. Exports have averaged 82 million pounds during the past three marketing years and are expected to be about 100 million pounds during the 1976–77 marketing year. In view of these data and estimates, a reserve supply level of 1,718 million pounds appears reasonable.

The total supply for the 1976–77 marketing year, October 1 carryover stocks plus estimated production of the 1976 crop, is 1,777 million pounds. This is 59 million pounds above the reserve supply level. Total disappearance for the 1977–78 marketing year is estimated at 637 million pounds. It has been determined that no adjustment is necessary to maintain an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Accordingly, the National Marketing Quota for burley tobacco for the marketing year beginning October 1, 1977 is determined to be 637 million pounds. The sum of the preliminary farm marketing quotas for the 1977–78 marketing year is 634,833,187 pounds. The quota of 637 million pounds, less a national reserve of 2,150,000 pounds would result in a national factor of 1.0.

Since the Act requires the holding of a referendum of burley tobacco producers within 30 days after the issuance of the proclamation of quotas to determine whether the producers favor quotas and the Act requires, insofar as practicable, the mailing of farm allotment notices to farmers prior to the referendum, it is hereby found that compliance with the notice of proposed rulemaking and public participation procedure in 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this revision is issued without following such procedure.

7 CFR Part 726 is amended as follows:

1. Section 726.1 and the preceding centerhead are revised to read as follows:

PROCLAMATION OF QUOTAS

§ 726.1 1977–78, 1978–79 and 1979–80 marketing years.

Since marketing quotas have been made effective for burley tobacco for the 1974–75, 1975–76 and 1976–77 marketing years (39 FR 4565), and since the 1976–77 marketing year is the last of three consecutive marketing years for which marketing quotas previously proclaimed will be in effect for burley tobacco, marketing quotas on a poundage basis are hereby proclaimed for burley tobacco for the 1977–78, 1978–79 and 1979–80 marketing years.

2. Section 726.11 and the preceding centerhead are revised to read as follows:

DETERMINATIONS AND ANNOUNCEMENTS—1977–78 MARKETING YEAR

§ 726.11 Burley tobacco.

(a) *National marketing quota.* A national marketing quota for burley tobacco on a poundage basis for the marketing year beginning October 1, 1977, is hereby determined and announced in the amount of 637 million pounds. This quota is based upon expected utilization and exports for the 1977–78 marketing year.

(b) *National factor.* The national factor determined under section 319(e) of the Act is 1.00.

(c) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm quotas and for establishing quotas for new farms is 2,150,000 pounds.

(Secs. 301, 319, 375, 52 Stat. 38, as amended, 85 Stat. 23, 52 Stat. 66, as amended (7 U.S.C. 1301, 1314e, 1375).)

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: February 1, 1977.

Signed at Washington, D.C., on January 31, 1977.

SEELEY G. LODWICK,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77–3469 Filed 2–1–77;10:10 am]

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

[Lemon Reg. 78]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period February 6–12, 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.

§ 910.378 Lemon Regulation 78.

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

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

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons is easier this week. Average f.o.b. price was $5.06 per carton the week ended January 29, 1977 compared to $4.97 per carton the previous week. Track and rolling supplies at 135 cars were up 15 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 section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation for regulation together with its supporting information has been submitted by the committee, however, the Secretary has modified the recommendation to provide for the shipment of a greater quantity of lemons, retaining the same effective date, and such information is being 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 section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on February 1, 1977.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period February 6, 1977, through February 12, 1977, is hereby fixed at 190,000 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: February 3, 1977.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-3895 Filed 2-3-77;11:31 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 442.1]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart A—Community Facility Loans

On August 17, 1976, there was published in the FEDERAL REGISTER (41 FR 34767-34772) a notice of proposed rulemaking involving the amendment of §§ 1823.2, 1823.3, 1823.4, 1823.5, 1823.6, 1823.7 1823.9, 1823.11, 1823.13, 1823.14, 1823.25, 1823.28, 1823.29, 1823.42, and the deletion of § 1823.15 of Subpart A of Part 1823, Title 7, Code of Federal Regulations (38 FR 29026, and as amended). Interested parties were given the opportunity to submit on or before September 18, 1976, comments, suggestions or objections regarding the proposed amendments.

Comments have been received and considered; however, only § 1823.13 is being adopted with change, as indicated, at this time. This section is amended pursuant to the August 17, 1976, proposal to include requirements regarding content of loan resolutions to be adopted by the applicant; provide for the use of multiple advances of loan funds in conjunction with interim commercial financing when needed; require the applicant to deposit applicant contribution funds prior to loan closing or start of construction, whichever occurs first; provide that supervised bank accounts which exceed the F.D.I.C. coverage be collateralized pursuant to Treasury Circular No. 176; provide that funds remaining after completion of the project be returned to FmHA as payment on the loan in a proportionate amount of the FmHA loan to the total project costs. The amendment of this section involved new paragraphs, redesignation and revision of others. Where no change of text is involved, only the redesignated paragraph with heading is shown.

The one comment received has been considered, and provides that an FmHA loan may be closed to retire the interim commercial indebtedness when the required statements cannot be obtained, provided certain conditions are met. This change as adopted avoids lengthy delays in closing loans which would prohibit FmHA applicants from meeting repayment terms of interim commercial lenders, thereby delaying the completion of needed projects. Also included are editorial changes.

Accordingly, § 1823.13, is amended by revising paragraphs (a), (b), (c)(2), (d), (e), (f), and (g) to read as follows:

§ 1823.13 Closing loans and fund delivery.

(a) *Loan resolutions.* Loan resolutions will be adopted by both public and other-than-public bodies using Forms FmHA 442-47, "Loan Resolutions (Public Bodies)," and FmHA 442-9, "Association Loan Resolutions (Security Agreement)," respectively. These resolutions will supplement or add to provisions included elsewhere in this subpart. The association will agree:

(1) To indemnify the Government for any payments made or losses suffered by the Government on behalf of the association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.

(2) To comply with applicable local, State and Federal laws, regulations and ordinances.

(3) To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, establishments of adequate reserves and to continually operate and maintain the facility in good condition. No free service or use of the facility will be permitted.

(4) To acquire and maintain such insurance coverage, including fidelity bonds, as may be required by the Government.

(5) To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof in such a manner as may be required by the Government to provide the Governmment without its request, a copy of each such audit and to make and forward to the Government such additional information and reports as it may, from time to time, require.

(6) To provide the Government, at all reasonable times, access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the association to complying with the provisions hereof and instruments incident to the making or insuring of the loan.

(7) To serve any applicant within the service area who desires services and can be feasibly and legally served, and to obtain the concurrence of the FmHA prior to refusing services to such applicant. Upon the failure to provide such services which are feasible and legal, such applicant shall have a direct right of action against the association under this agreement.

(8) To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds or notes or other lien instruments containing such items and in such form as are required by State statutes and as are agreeable and acceptable to the Government.

(9) To refinance the unpaid balance, in whole or in part, of its bonds or notes

upon the request of the Government if at any time it should appear to the Government that the association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms.

(10) To provide for, execute, and comply with Form FmHA 400-4, "Nondiscrimination Agreement," and Form FmHA 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in or attached as a rider to each construction contract and subcontract involving an amount in excess of $10,000.

(11) To place the proceeds of the loan on deposit in an account in a bank and in a manner approved by the Government.

(12) Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof or interest therein; not to permit others to do so, without the prior written consent of the Government.

(13) Not to borrow any money from any source, enter into any contract or agreement, or incur any other liabilities in connection with making enlargements, improvements, or extensions to, or for any other purpose in connection with the facility (exclusive of normal maintenance) without prior written consent of the Government, if such undertaking would involve the source of funds pledged to pay the debt to FmHA.

(14) That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government, at its option, may:

(i) Declare the entire principal amount then outstanding and accrued interest, due and payable;

(ii) For the account of the association (payable from the source of funds pledged to pay the bonds or notes or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default; and/or

(iii) Take possession of the facility, repair, maintain and operate, rent or otherwise dispose of the facility. Default under the provisions of the resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the association, and default under any such instrument may be construed by the Government to constitute default hereunder.

(b) *Interim financing.* In all loans, exceeding $50,000, where it is possible for funds to be borrowed at reasonable interest rates on an interim basis from commercial sources for the construction period, such interim financing will be obtained so as to preclude the necessity for multiple advances of FmHA funds. When interim commercial financing is used, the application will be processed, including obtaining construction bids, to the stage where the FmHA loan would normally be closed, that is immediately prior to the start of construction. When the interim financing funds have been expended, the FmHA loan will be closed. Multiple advances may be used in conjunction with interim commercial financing when the applicant is unable to obtain sufficient funds through interim commercial financing in an amount equal to the loan. The FmHA loan proceeds (including advances) will be used to retire the interim commercial indebtedness. Before the FmHA loan is closed, the applicant will be required to provide FmHA with statements from the contractor, engineer, architect, and attorney that they have been paid to date in accordance with their contracts or other agreements and, in the case of the contractor, that he has paid his suppliers and subcontractors. If such statements cannot be obtained, the loan may be closed provided:

(1) Statements to the extent possible are obtained;

(2) The interests of FmHA can be adequately protected and its security position is not impaired;

(3) Adequate provisions are made for handling the unpaid accounts by withholding or escrowing sufficient funds to pay such claims.

(c) *Multiple advances.* * * *

* * * * *

(2) Advances will be requested in sufficient amounts to insure that ample funds will be on hand to pay costs of construction, rights-of-way and land, legal, engineering, interest, and other expenses as needed. The applicant will prepare Form FmHA 440-11, "Estimate of Funds Needed," to show the amount of funds needed during the 30-day period. Form AD-627, "Report of Federal Cash Transactions," will be prepared and submitted with each Form FmHA 440-11 after the initial advance of funds is made.

(d) *Applicant contribution.* Applicants contributing funds toward the project cost shall deposit these funds in its construction account on or before loan closing or start of construction, whichever occurs first. Project costs, paid prior to the required deposit time, with applicant funds shall be appropriately accounted for.

(e) *Supervised bank account.* Loan funds and any funds furnished by the applicant may be deposited in a supervised bank account in a bank having Federal Deposit Insurance Corporation (FDIC) coverage. Funds placed in a supervised bank account are public monies under Title 12 U.S.C. 265, and therefore any amount which exceeds the FDIC coverage will require a collateral pledge pursuant to Treasury Circular No. 176. If a supervised bank account is not used, arrangements will be agreed upon for the prior approval by FmHA of the bills, or vouchers upon which warrants will be drawn, so that the necessary control of payments from loan funds can be maintained and FmHA records can be kept current. Periodic audits of nonsupervised accounts shall be made by FmHA at such times and in such manner as the FmHA State Director prescribes in the conditions of loan approval. Mandatory State Laws regulating the depositories to be used shall be complied with.

(f) *Payment for construction.* Payment for construction will be made in accordance with the construction contract in amounts approved on Form FmHA 424-18, "Partial Payment Estimate." Advances for contract retainage will not be made until such retainage is due and payable under the terms of contract. Form AD-629, "Outlay Report and Request for Reimbursement for Construction Programs," will be used to account for funds expended in the last 30-day period. Each payment estimate must be approved by the governing body of the borrower. The review and acceptance of partial payment estimates by FmHA does not attest to the correctness of the quantities shown or that the work has been performed in accordance with the plans and specifications. A final Form AD-627 will be submitted to FmHA to include the final advance and all other advances not later than 90 days after the final advance has been made.

(g) *Funds remaining after construction is completed.* Should loan funds remain available, including obligated funds not advanced, after all costs incident to the basic project have been paid or provided for, such funds may be used for needed extensions, enlargements and improvements of the project with the prior permission of the FmHA State Director. If the additional work is to be undertaken by the contractor(s) already engaged in the construction of the project, the additional work may be authorized by a change order. Remaining project funds not needed for authorized extensions, enlargements, or improvements shall be returned to FmHA as a repayment on the loan in a proportionate amount of the FmHA loan to the total planned project cost, unless other disposition is required by the bond ordinance or resolution or by State statutes.

(h) *Obtaining insurance and fidelity bonds.* * * *

(i) *Distribution of recorded documents.* * * *

* * * * *

(7 U.S.C. 1989, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23, delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Effective date: This amendment shall become effective on February 4, 1977.

Dated: January 26, 1977.

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

[FR Doc.77-3696 Filed 2-3-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

Proposed Issuance of Memorandum on Use of Larger Pair Sizes of Filled Cables

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue a memorandum (File with REA Bulletin 383–1) which outlines restrictions on the use of loan funds for the purchase of nonfilled buried or underground cables and places increased emphasis on the use of filled cables in all sizes for application in buried or underground systems. On issuance of the proposed memorandum, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the memorandum 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 March 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.

The text of the proposed memorandum is as follows:

[File With REA Bulletin 383–1]

Subject: Use of Larger Pair Sizes of Filled Cables

To: All REA Telephone Borrowers, Consulting Engineers and Contractors

In a letter dated October 15, 1974, we informed all REA telephone borrowers, consulting engineers and contractors that the use of filled buried wires and cables would be mandatory up through 200 pairs. This action was taken in order to take advantage of improved maintenance experience and transmission stability over air core types.

We now feel there is sufficient justification for requiring all sizes of buried or underground cable to be of the filled type or to be pressurized. Accordingly, this is to inform all borrowers that effective on all projects bid after July 1, 1977, or on all orders placed by REA borrowers after this date, REA loan funds will not be authorized to be used for the purchase of nonfilled buried or underground cables unless such cables are to be utilized as part of a pressurized cable plant. For direct buried filled cables the BJF assembly units shall be specified in lieu of BJ units. For underground filled cables specify the "UF" unit in lieu of the "U" unit.

Dated: January 27, 1977.

C. R. BALLARD,
Assistant Administrator,
Telephone.

[FR Doc.77-3269 Filed 2-3-77;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Part 92]

FOREIGN EMBARKATION QUARANTINE STATION FOR LIVESTOCK

Proposed Criteria and Standards for Establishment

Correction

In FR Doc. 77–1966 appearing on page 3859 in the issue for Friday, January 21, 1977, on page 3860, middle column, the 14th line of § 92.4a(a)(7) should read "of such action; but such withdrawal or refusal shall con-".

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 200]

[Release No. 33–5802, 34–13232, 35–19867, 39–453, IC–9628, IA–567; FOIA–48; File No. S7–674; Comment deadline: March 7, 1977]

GOVERNMENT IN THE SUNSHINE

Public Observation of Commission Meetings, Information and Requests, and Related Matters

The Securities and Exchange Commission today announced rulemaking proposals to implement the Government in the Sunshine Act, 5 U.S.C. 552b, ("Sunshine Act") which has, as its principal provision, the requirement that, unless exempt, "every portion of every meeting of an agency shall be open to public observation." 5 U.S.C. 552b(b). The Commission is soliciting comment on these proposed rules pursuant to the provision in the Sunshine Act which requires every agency subject to the open meetings requirements to publish notice in the FEDERAL REGISTER of its proposed implementing rules and to provide at least 30 days opportunity for public comment thereon.[1] The Act takes effect on March 12, 1977.

The Sunshine Act also establishes certain standards regarding ex parte communications in on-the-record agency proceedings and contains amendments to the Freedom of Information Act, 5 U.S.C. 552 ("FOIA"). Accordingly, the Commission has today also proposed amendments to its regulations concerning public requests for information (17 CFR Part 200, Subpart D), and, in the near future, will amend its existing Code of Behavior Governing Ex Parte Communications Between Persons Outside the Commission and Decisional Employees (17 CFR Part 200, Subpart F) to conform to 5 U.S.C. 557(d), enacted by the Sunshine Act.[2]

In announcing these rule proposals, the Commission emphasizes that the sole purpose of proposed new Subparts B and I of the Commission's rules—"Disposition of Commission Business" and "Regulations Pertaining to Public Observation of Commission meetings," respectively—is the implementation of the Sunshine Act. These rules are not intended to confer new rights, apart from those expressly conferred by the Act, nor to open to those who disagree with particular Commission decisions new avenues of attack—not available under existing law—upon Commission action for the protection of investors. See 5 U.S.C. 552b(h). Accordingly, the proposals herein should be interpreted in light of the purposes and terms of the Sunshine Act.

The proposals today announced would amend Subpart A (entitled "Organization and Program Management") and Subpart D (entitled "Information and Requests") of the Commission's existing rules in Part 200 of 17 CFR. In addition, these proposals would create a new Subpart B (entitled "Disposition of Commission Business") and a new Subpart I (entitled "Regulations Pertaining to Public Observation of Commission Meetings"). A brief synopsis of these rules appears below, and the full text is appended hereto.

AMENDMENTS TO SUBPART A—ORGANIZATION AND PROGRAM MANAGEMENT

The Commission proposes to amend 17 CFR 200.21, which describes the duties of the Commission's General Counsel, to add a reference to the General Counsel's responsibility for certifying that particular Commission meetings may properly be closed to the public. Such a certification is required by 5 U.S.C. 552b(f)(1), as implemented by the Commission's proposed § 200.406. In the case of the absence of the General Counsel, the most senior Associate General Counsel or Assistant General Counsel available would be deemed to be the Acting General Counsel for purposes of executing the certification in question. In the absence of both the General Counsel and every Associate and Assistant General Counsel, such attorney as the General Counsel designates would perform this

[1] Section 552b(g) requires that each agency consult with the Administrative Conference of the United States in formulating rules to implement the Sunshine Act. The Commission has engaged in such consultation, by furnishing copies of the preliminary drafts of these rules to the Conference, by discussions with Conference personnel, and by attendance at the Conference's seminar on this subject.

[2] In this release, the Commission also solicits comments on proposed clarifying Freedom of Information Act ("FOIA") amendments. The Sunshine Act expressly requires the opportunity for public comment only as to rules implementing the new open meetings requirements.

task. While the Commission believes it important to provide for the performance of the certification function in the absence of the General Counsel, the Commission does not intend that this responsibility will routinely be discharged except by the General Counsel.

NEW SUBPART B—DISPOSITION OF COMMISSION BUSINESS

Proposed new Subpart B of Part 200, which reflects existing Commission procedures, is intended to describe generally the manner in which the Commission conducts business requiring a vote of the members of the Commission. Section 200.40 pertains to the joint disposition of business, at Commission meetings or otherwise, and embodies the provision in 5 U.S.C. 552b(b) which will prohibit joint deliberations among Commission members except in accordance with the Sunshine Act.

Sections 200.41 and 200.42 reflect the existing practice by which the Commission occassionally conducts business without joint deliberations among its members. Section 200.41 provides for sequential consideration of matters not requiring joint deliberation. Section 200.42 delegates to an individual Commissioner, to be designated as "duty officer," certain of the Commission's functions pursuant to the terms of 15 U.S.C. 78d–1. Although not expressly required by the delegation statute, § 200.42 (c) provides that every action taken by the duty officer shall be submitted to the full Commission for affirmation as soon as practicable. While the procedures in § 200.41 or § 200.42 will not be utilized where joint deliberation would be preferable, the Commission believes that it must retain the flexibility to employ such procedures when agency business so demands.

AMENDMENTS TO SUBPART D—INFORMATION AND REQUESTS

Section 5(b) of the Sunshine Act amends exemption 3 under the Freedom of Information Act, 5 U.S.C. 552(b)(3) and, accordingly, the Commission proposes to amend its corresponding FOIA exemption to reflect the statutory change. In addition, the Commission is proposing technical amendments to its rules implementing exemptions 2, 4, 7, and 8 in order to describe more clearly the scope of these exemptions in the context of the Commission's operations and the manner in which the Commission is currently applying these exemptions. Since FOIA exemptions 1, 2, 3, 4, 7, and 8 parallel Sunshine exemptions appearing in 5 U.S.C. 552b(c) (1), (2), (3), (4), (7), and (8), the Commission is proposing to conform the wording of its rules to implement these identical FOIA and Sunshine exemptions.

The Commission is also proposing to amend § 200.80(a), which describes information published in the FEDERAL REGISTER, to include those notices required to be so published by the Sunshine Act. Similarly, the proposed amendment to the listing of documentary material available to the public which appears in § 200.80a, Appendix A, would add thereto certain documents required to be prepared pursuant to the Sunshine Act.

NEW SUBPART I—REGULATIONS PERTAINING TO PUBLIC OBSERVATION OF COMMISSION MEETINGS

The Commission is proposing 11 rules, to be codified in proposed new Subpart I of Part 200, to implement the open meetings requirements of the Sunshine Act. Below is a brief description of each of these proposed rules.

Section 200.400—This rule would state that Commission meetings are to be open to the public, except as otherwise provided pursuant to Subpart I. See 5 U.S.C. 552b(b).

Section 200.401—Proposed Rule 401 would define various terms utilized elsewhere in new Subpart I. The definition of "meeting" is drawn from 5 U.S.C. 552b(a)(2). Similarly, the definition of the term "financial institution" has been taken from the legislative history of the Sunshine Act. See S. Rep. No. 94–354, p. 24.

Section 200.402—Rule 402 would authorize the Commission to close meetings which fall within one of the 10 specified exemptions in 5 U.S.C. 552b(c). To the extent feasible, in setting forth these exemptions the Commission, for the guidance of the public, has provided a description of the various types of Commission action which would appear to be encompassed by each exemption. The proposed rule makes clear, however, that these descriptions are merely illustrative and not exhaustive. As stated above, where these statutory exemptions under the Sunshine Act parallel statutory exemptions under the FOIA, identical language has been employed in both the Commission's FOIA and Sunshine rules. Subsection (c) provides that the Commission may, in its discretion, open any meeting even if closable pursuant to one or more exemptions. Subsection (d) of Rule 402 authorizes the Commission to delete from the announcement of a meeting any information which falls within one of the 10 specified exemptions.

Section 200.403—Proposed Rule 403 would implement the provisions of 5 U.S.C. 552b(e) requiring announcement and publication of a notice of Commission meetings. Subsection 403(c) authorizes expedited procedures for urgent matters, and Subsection 403(d) authorizes an abbreviated notice for certain closed Commission meetings. See 5 U.S.C. 552b(d)(4). A note to this proposed rule describes the general plan which the Commission presently foresees following in scheduling its meetings. As stated therein, the note is provided for the guidance of the public but is not, in any event, binding on the Commission.

Section 200.404—Proposed Rule 404 would provide the general procedure by which the Commission may take action to close a Commission meeting; the steps described are those required by 5 U.S.C. 552b(d) (1) and (3).

Section 200.405—On the basis of a review of the matters actually considered by the Commission during the past several months, and on the basis of the legislative history of the Sunshine Act, the Commission has determined that it is entitled to utilize the simplified procedure for closing Commission meetings which fall within exemptions 4, 8, 9(A), or 10 of 5 U.S.C. 552b(c). The steps described are those permitted by 5 U.S.C. 552(d)(4). That paragraph provides, in pertinent part:

"Any agency, a majority of whose meetings may properly be closed to the public pursuant to paragraph (4), (8), (9)(A), or (10) of subsection (c) [of 5 U.S.C. 552b]; or any combination thereof, may provide by regulation for the closing of such meetings or portions thereof in the event that [specified steps are taken]."

Section 200.406—Proposed Rule 406 would require that, for every closed Commission meeting, the General Counsel shall publicly certify that, in his or her opinion, the meeting may properly be closed to the public. This rule would implement the first sentence of 5 U.S.C. 552b(f)(1).

Section 200.407—Proposed Rule 407 would require the Secretary to maintain a verbatim transcript or recording of all closed meetings, except that the Secretary may maintain detailed minutes in lieu of a verabtim record for meetings closed pursuant to paragraphs (8), (9)(A), or (10) of 5 U.S.C. 552b(c). This rule would also require the Secretary to retain both the General Counsel's certification and a statement of the presiding officer setting forth the time, place, and persons present, for each closed meeting. See 5 U.S.C. 552b(f)(1).

Section 200.408—Proposed Rule 408 would provide for public access to any nonexempt portion of the transcript or recording of a closed meeting within 20 days of the receipt, by the FOIA Officer, of any request for such transcript or recording. See 5 U.S.C. 552b(f)(2). In addition, the Commission proposes an administrative appeal procedure comparable to that now in place under the FOIA, for review of the denial of access to a transcript or recording (or portion thereof). The Sunshine Act does not expressly mandate such an appeal procedure.

Section 200.409—Proposed Rule 409 would create a discretionary administrative review procedure whereby interested persons may seek reconsideration of the decision to open or close a meeting. While 5 U.S.C. 552b(d)(2) requires this procedure as to certain open meetings, the Commission proposes, for the benefit of the public, also to establish a comparable procedure as to closed meetings in order, where possible, to resolve in advance claims regarding closed meetings.

Section 200.410—This proposed rule would cover three miscellaneous matters: Subsection (a) prohibits unauthorized recording or photography of open meetings and insures maintenance of decorum generally; Subsection (b) authorizes the Commission to clear its meeting room in the event that discussion at an open meeting begins to touch on matters properly the subject of closed deliberations; and Subsection (c) provides that access to documents discussed at meetings may only be obtained pursuant to the FOIA.

CONCLUSION AND REQUEST FOR COMMENT

The Commission believes that the proposals herein will fully implement both the letter and spirit of the Sunshine Act while at the same time protecting the Commission's need, in order properly and fairly to discharge its responsibilities under the federal securities laws, to prevent public disclosure of certain information. The Commission recognizes, however, that the implementation of the Sunshine Act will entail many changes in its existing procedures, and intends to afford careful consideration to the views of all interested persons.

Comments concerning these proposals should be submitted, in triplicate, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 before the close of business on March 11, 1977. All such communications should refer to File S7–674 and will be available for public inspection and copying at the Commission's

Public Reference Room, 1100 L Street, N.W., Washington, D.C. The text of the proposals discussed herein is set forth below.

TEXT OF PROPOSED RULES

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. Section 200.21 of Subpart A of Title 17 CFR is amended by adding the following to § 200.21 to read as follows:

Subpart A—Organization and Program Management

§ 200.21 The General Counsel.

* * * * *

The General Counsel is also responsible for publicly certifying, pursuant to § 200.406, that, in his or her opinion, particular Commission meetings may properly be closed to the public. In the absence of the General Counsel, the most senior Associate General Counsel available shall be deemed the General Counsel for purposes of § 200.406. In the absence of the General Counsel and every Associate General Counsel, the most senior Assistant General Counsel available shall be deemed the General Counsel for purposes of § 200.406. In the absence of every Associate General Counsel and every Assistant General Counsel, such attorneys as the General Counsel may designate (in such order of succession as the General Counsel directs) shall exercise the responsibilities imposed by § 200.406.

2. New Subpart B is added to Part 200 to read as follows:

Subpart B—Disposition of Commission Business

Sec.

200.40 Joint disposition of business by Commission meeting.
200.41 Disposition of business by seriatim Commission consideration.
200.42 Disposition of business by exercise of authority delegated to individual Commissioner.

Subpart B—Disposition of Commission Business

§ 200.40 Joint disposition of business by Commission meeting.

Any disposition of Commission business which entails joint deliberation among the members of the Commission shall occur at Commission meetings in accordance with the definitions and procedures set forth in Subpart I of this part. The Commission's Secretary shall prepare and maintain a Minute Record reflecting the official action taken at such meetings.

§ 200.41 Disposition of business by seriatim Commission consideration.

(a) Whenever the Commission's Chairman, or the Commission member designated as duty officer pursuant to § 200.42, is of the opinion that joint deliberation among the members of the Commission upon any matter is unnecessary in light of the nature of the matter, impracticable, or contrary to the requirements of agency business, but is of the view that such matter should be the subject of a vote of the Commission, such matter may be disposed of by circulation of any relevant materials concerning the matter to at least that number of Commission members necessary to take action thereon. Each participating Commission member shall report his or her vote to the Secretary, who shall record it in the Minute Record of the Commission.

(b) Whenever any member of the Commission so requests, any matter circulated for disposition pursuant to § 200.41(a) shall be withdrawn from circulation and scheduled instead for joint Commission deliberation.

§ 200.42 Disposition of business by exercise of authority delegated to individual Commissioner.

(a) *Delegation to duty officer.* (1) Pursuant to the provisions of Pub. L. No. 87-592, 76 Stat. 394, as amended by Section 25 of Pub. L. 94-29, 89 Stat. 163, the Commission hereby delegates to an individual Commissioner, to be designated as the Commission's "duty officer" by the Chairman of the Commission (or by the Chairman's designee) from time to time, all of the functions of the Commission: *Provided, however,* That no such delegation shall authorize the duty officer (i) to exercise the function of rulemaking, as defined in the Administrative Procedure Act of 1946, as codified, 5 U.S.C. 551, et seq., with reference to general rules as distinguished from rules of particular applicability; (ii) to make any rule, pursuant to section 19(c) of the Securities Exchange Act of 1934; or (iii) to preside at the taking of evidence as described in section 7(a) of the Administrative Procedure Act, 5 U.S.C. 556(b).

(2) To the extent feasible, the designation of a duty officer shall rotate, under the administration of the Secretary, on a regular weekly basis among the members of the Commission other than the Chairman.

(b) *Exercise of duty officer authority.* (1) The authority delegated by this rule shall be exercised when, in the opinion of the duty officer, action is required to be taken which, by reason of its urgency, cannot be scheduled for consideration at a Commission meeting. After consideration of a staff recommendation involving such a matter, the duty officer shall report his or her action thereon to the Secretary.

(2) In any consideration of Commission business by a duty officer, the provisions of Subpart I herein, § 200.400 et seq., shall not apply, whether or not the duty officer, in exercising his or her authority, consults with, or seeks the advice of, other members of the Commission.

(c) *Commission affirmation of duty officer action.* (1) Any action authorized by a duty officer pursuant to § 200.42(a) shall be either (i) circulated to the members of the Commission for affirmation pursuant to § 200.41; or (ii) scheduled for affirmation at a Commission meeting at the earliest practicable date consistent with the procedures in Subpart I.

(2)(i) The Commission may, in its discretion, at any time review any unaffirmed action taken by a duty officer, either upon its own initiative or upon the petition of any person affected thereby. The vote of any one member of the Commission, including the duty officer, shall be sufficient to bring any such unaffirmed action taken by a duty officer before the Commission for review.

(ii) A person or party adversely affected by any unaffirmed action taken by a duty officer shall be entitled to seek review by the Commission of the duty officer's unaffirmed actions, but only in the event that the unaffirmed action by the duty officer (A) denies any request for action pursuant to sections 8(a) or 8(c) of the Securities Act of 1933, or the first sentence of section 12(d) of the Securities Exchange Act of 1934; (B) suspends trading in a security pursuant to section 12(k) of the Securities Exchange Act of 1934; or (C) is pursuant to any provision of the Securities Exchange Act of 1934 in a case of adjudication, as defined in section 551 of Title 5, United States Code, not required by that Act to be determined on the record after notice and opportunity for hearing (except to the extent there is involved a matter described in section 554(a) (1) through (6) of Title 5, United States Code).

(3) Affirmed or unaffirmed action taken by the duty officer shall be deemed to be, for all purposes, the action of the Commission unless and until the Commission directs otherwise. Rule 26 of the Commission's rules of practice, 17 CFR 201.26, shall not apply to duty officer action.

Subpart D—Information and Requests

3. Section 200.80 of Subpart D of Part 200 is amended as follows: Paragraph (a)(1)(v) is amended; paragraph (a)(1)(vi) is added; and paragraphs (b)(2), (3), (4), and (8) are amended to read as follows:

§ 200.80 Commission records and information.

(a)(1) *Information published in the* FEDERAL REGISTER. * * *

(v) Each amendment, revision, or repeal of the foregoing; and

(vi) The notice of Commission meetings described in § 200.403, but only to the extent, and under the conditions, specified in § 200.403.

* * * * *

(b) *Nonpublic matters.* * * *

(2) Related solely to the internal personnel rules and practices of the Commission or any other federal, state, local, or foreign governmental authority or agency, including, but not limited to:

(i) Operation rules, guidelines, and manuals of procedure for investigators, attorneys, accountants, and other employees other than those which establish legal requirements to which members of the public are expected to conform; or

(ii) Hiring, termination, promotion, discipline, compensation, or reward of any Commission employee or member, the existence, investigation, or disposition of a complaint against any Commission employee or member, the physical or mental condition of any Commission

employee or member, the handling of strictly internal matters, matters which would tend to infringe on the privacy of the staff or members of the Commission, or similar subjects.

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential, including, but not limited to:

* * * * *

(7) (i) Investigatory records compiled for law enforcement purposes to the extent that the production of such records would: (A) Interfere with enforcement activities undertaken or likely to be undertaken by the Commission or the Department of Justice, or any United States Attorney, or any federal, state, local, or foreign governmental authority, any professional association, or any securities industry self-regulatory organization; (B) deprive a person of a right to a fair trial or an impartial adjudication; (C) constitute an unwarranted invasion of personal privacy; (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; or (E) disclose investigative techniques and procedures; or (F) endanger the life or physical safety of law enforcement personnel.

(ii) The term "investigatory records" includes, but is not limited to, all documents, records, transcripts, evidentiary materials of any nature, correspondence, related memoranda, or work product concerning any examination, any investigation (whether formal or informal), or any related litigation, which pertains to, or may disclose, the possible violation by any person of any provision of any statute, rule, or regulation administered by the Commission, by any other federal, state, local, or foreign governmental authority, by any professional association, or by any securities industry self-regulatory organization. The term "investigatory records" also includes all written communications from, or to, any person complaining or otherwise furnishing information respecting such possible violations, as well as all correspondence or memoranda in connection with such complaints or information.

(8) Contained in, or related to, any examination operating, or condition report prepared by, on behalf of, or for the use of, the Commission, any other federal, state, local, or foreign governmental authority, or any securities industry self-regulatory organization, responsible for the regulation or supervision of financial institutions.

* * * * *

4. Add the following sentence to § 200.80a.

§ 200.80a Appendix A Documentary material available to the public.

* * * * *

MISCELLANEOUS

* * * * *

Notices of Commission meetings announced to the public as described in § 200.403; announcements of Commission action to close a meeting, or any portion thereof, as described in § 200.404(b) and § 200.405(c); and certifications by the General Counsel, pursuant to § 200.406, that a Commission meeting, or any portion thereof, may be closed to the public.

5. New Subpart I is added to Part 200 to read as follows:

Subpart I—Regulations Pertaining to Public Observation of Commission Meetings

Sec.

200.400 Open meetings.
200.401 Definitions.
200.402 Closed meetings.
200.403 Notice of Commission meetings.
200.404 General procedure for determination to close meeting.
200.405 Special procedure for determination to close meeting.
200.406 Certification by the General Counsel.
200.407 Transcripts, minutes, and other documents concerning closed Commission meetings.
200.408 Public access to transcripts and minutes of closed Commission meetings; record retention.
200.409 Administrative appeals.
200.410 Miscellaneous.

Subpart I—Regulations Pertaining to Public Observation of Commission Meetings

§ 200.400 Open meetings.

Except as otherwise provided in this subpart, meetings of the Commission shall be open to public observation.

§ 200.401 Definitions.

As used in this subpart—

(a) "Meeting" means the joint deliberations of at least the number of individual members of the Securities and Exchange Commission required to take action on behalf of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business, but does not include deliberations required or permitted by § 200.41 or § 200.42 (respecting seriatim and duty officer disposition of Commission business, respectively), or by §§ 200.403, 200.404, or 200.405 (respecting whether particular Commission deliberations shall be open or closed and related matters).

(b) "Portion of a meeting" means the consideration during a meeting of a particular topic or item separately identified in the notice of Commission meetings described in § 200.403.

(c) "Open," when used in the context of a Commission meeting or a portion thereof, means that the public may attend and observe the deliberations of the Commission during such meeting or portion of a meeting, consistent with the provisions of § 200.410 (respecting decorum at meetings and other related matters).

(d) "Closed," when used in the context of a Commission meeting or a portion thereof, means that the public may not attend or observe the deliberations of the Commission during such meeting or portion of a meeting.

(e) "Announce," and "make publicly available," when used in the context of the dissemination of information, mean, in addition to any specific method of publication described in this subpart, that a document containing the information in question will be posted for public inspection in, or adjacent to, the lobby of the Commission's headquarters offices, will be available to the public through the Commission's Public Reference Section, and will be available to the press through the Commission's Office of Public Affairs, all in Washington, D.C.

(f) The term "likely to," as used in § 200.402, illustrating the circumstances under which Commission meetings may be closed, and the circumstances in which information may be deleted from the notice of Commission meetings, means that the discussion of Commission business, or publication of information, reasonably could encompass matters which the Commission is authorized, by the Government in the Sunshine Act, Pub. L. 94-409, as implemented by this subpart, to consider or discuss at a closed meeting (or a closed portion of a meeting).

(g) The term "financial institution," as used in § 200.402(a), authorizing the closure of certain Commission meetings, includes, but is not limited to, banks, savings and loan associations, credit unions, brokers and dealers in securities or commodities, exchanges dealing in securities or commodities, national securities associations, investment companies, investment advisers, securities industry self-regulatory organizations subject to 15 U.S.C. 78s, and institutional managers as defined in 15 U.S.C. 78m(f).

(h) The term "person" includes, but is not limited to, any corporation, partnership, company, association, joint stock corporation, business trust, unincorporated organization, government, political subdivision, agency, or instrumentality of a government.

§ 200.402 Closed meetings.

(a) *Nonpublic matters.* Pursuant to the general or special procedures for closing Commission meetings, as set forth in § 200.404 or § 200.405, respectively, a meeting, or any portion thereof, shall be closed to public observation where the Commission determines that such meeting, or a portion thereof, is likely to—

(1) Disclose matters specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy, and in fact properly classified pursuant to such executive order.

(2) Relate solely to the internal personnel rules and practices of the Commission or any other Federal, state, local, or foreign governmental authority or agency, including, but not limited to, discussion concerning

(i) Operation rules, guidelines, and manuals of procedure for investigators, attorneys, accountants, and other employees, other than those rules, guidelines, and manuals which establish legal requirements to which members of the public are expected to conform; or

(ii) Hiring, termination, promotion, discipline, compensation, or reward of any Commission employee or member, the existence, investigation, or disposition of a complaint against any Commission employee or member, the physical or mental condition of any Commission employee or member, the handling of strictly internal matters, which would tend to infringe on the privacy of the staff or members of the Commission, or similar subjects.

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential, including, but not limited to:

(i) Information contained in letters of comment in connection with resignation statements, applications for registration or other material filed with the Commission, replies thereto, and related material which is deemed to have been submitted to the Commission in confidence or to be confidential at the instance of the registrant or person who has filed such material unless the contrary clearly appears; and

(ii) Information contained in any document submitted to or required to be filed with the Commission where the Commission has undertaken formally or informally to receive such submission or filing for its use or the use of specified persons only, such as preliminary proxy material filed pursuant to Rule 14a-6 under the Securities Exchange Act (17 CFR 240.14a-6), reports filed pursuant to Rule 316(a) under the Securities Act (17 CFR 230.316(a)), agreements filed pursuant to Rule 15c-3-1(c)(7)(G) under the Securities Exchange Act 17 CFR 240.15c-1(c)(7)(vii)), schedules filed pursuant to Part I of Form X-17A-5 (17 CFR 249.617) in accordance with Rule 17a-5(b)(3) under the Securities Exchange Act (17 CFR 240.17a-5(b)(3), statements filed pursuant to Rule 17a-5(k)(1) under the Securities Exchange Act 17 CFR 240.17a-5(k)(1)), confidential reports filed pursuant to Rules 17a-9, 17a-10, 17a-12 and 17a-16 under the Securities Exchange Act (17 CFR 240. 17a-9, 240.17a-12, and 240.17a-16), and any information filed with the Commission and confidential pursuant to section 45 of the Investment Company Act of 1940, 15 U.S.C. 80a-44, or Rule 45a-1 thereunder (17 CFR 270.45a-1); and

(iii) Information contained in reports, summaries, analyses, letters, of memoranda arising out of, in anticipation of, or in connection with, an examination or inspection of the books and records of any person or any other investigation.

(5) Involve accusing any person of a crime, or formally censuring any person, including, but not limited to, consideration of whether to:

(i) Institute, continue, or conclude administrative proceedings or any formal or informal investigation or inquiry, whether public or nonpublic, against or involving any person; or

(ii) Commence, participate in, or terminate judicial proceedings alleging a violation of any provision of the federal securities laws, or the rules and regulations thereunder, or any other statute or rule a violation of which is punishable as a crime; or

(iii) Issue a report or statement discussing the conduct of any person and the relationship of that conduct to possible violations of any provision of the federal securities laws, or the rules and regulations thereunder, or any other statute or rule a violation of which is punishable as a crime; or

(iv) Transmit, with or without recommendation, any Commission memorandum, file, document, or record to the Department of Justice, a United States Attorney, any federal, state, local, or foreign governmental authority, any professional association, or any securities industry self-regulatory organization, in order that the recipient may consider the institution of proceedings against any person or the taking of any action that might involve accusing any person of a crime or formally censuring any person; or

(v) Seek from, act upon, or act jointly with respect to, any information, file, document, or record where such action could lead to accusing any person of a crime or formally censuring any person by any entity described in paragraph (a)(5)(iv) of this section.

(6) Disclose information of a personal nature, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(7)(i) Disclose investigatory records compiled for law enforcement purposes, or information which, if written, would be contained in such records, to the extent that the production of such records would: (A) Interfere with enforcement activities undertaken, or likely to be undertaken, by the Commission or the Department of Justice, or any United States Attorney, or any federal, state, local, or foreign governmental authority, any professional association, or any securities industry self-regulatory organization; (B) deprive a person of a right to a fair trial or an impartial adjudication; (C) constitute an unwarranted invasion of personal privacy; (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; (E) disclose investigative techniques and procedures; or (F) endanger the life or physical safety of law enforcement personnel.

(ii) The term "investigatory records" includes, but is not limited to, all documents, records, transcripts, evidentiary materials of any nature, correspondence, related memoranda, or work product concerning any examination, any investigation (whether formal or informal), or any related litigation, which pertains to, or may disclose, the possible violation by any person of any provision of any statute, rule, or regulation administered by the Commission, by any other federal, state, local, or foreign governmental authority, by any professional association, or by any securities industry self-regulatory organization. The term "investigatory records" also includes all written communications from, or to, any person complaining or otherwise furnishing information respecting such possible violations, as well as all correspondence or memoranda in connection with such complaints or information.

(8) Disclose information contained in, or related to, any examination, operating, or condition report prepared by, on behalf of, or for the use of, the Commission, any other federal, state, local, or foreign governmental authority, or any securities industry self-regulatory organization, responsible for the regulation or supervision of financial institutions.

(9) Disclose information the premature disclosure of which would be likely to

(i)(A) Lead to significant financial speculation in currencies, securities, or commodities, including, but not limited to, discussions concerning the proposed or continued suspension of trading in any security, or the possible investigation of, or institution of activity concerning, any person with respect to conduct involving or affecting publicly-traded securities, or (B) Significantly endanger the stability of any financial institution; or

(ii) Significantly frustrate the implementation, or the proposed implementation, of action by the Commission, any other federal or state governmental authority or agency, or any securities industry self regulatory agency: *Provided, however*, That this subdivision (ii) shall not apply in any instance where the Commission has already disclosed to the public the precise content or nature of itse proposed action, or where the Commission is expressly required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal.

(10) Specifically concern the Commission's consideration of, or its actual: issuance of a subpoena (whether by the Commission directly or by any Commission employee or member); participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration; or initiation, conduct, or dispostion of a particular case of formal adjudication pursuant to

the procedures in 5 U.S.C. 554, or otherwise involving a determination on the record after opportunity for a hearing; including, but not limited to, matters involving

(i) The institution, prosecution, adjudication, dismissal, settlement, or amendment of any administrative proceeding, whether public or nonpublic; or

(ii) The commencement, settlement, defense, or prosecution of any judicial proceeding to which the Commission, or any one or more of its members or employees, is or may become a party; or

(iii) The commencement, conduct, termination, status, or disposition of any inquiry, investigation, or proceedings to which the power to issue subpoenas is, or may become, attendant; or

(iv) The discharge of the Commission's responsibilities involving litigation under any statute concernng the subject of bankruptcy; or

(v) The participation by the Commission (or any employee or member thereof) in, or involvement with, any civil judicial proceeding or any administrative proceeding, whether as a party, as amicus curiae, or otherwise; or

(vi) The disposition of any application for a Commission order of any nature where the issuance of such an order would involve a determination on the record after opportuntiy for a hearing.

(b) *Interpretation of exemptions.* The examples set forth § 200.402(a)(1) through (10) of particular matters which may be the subject of closed Commission deliberations are to be construed as illustrative, but not as exhaustive, of the scope of those exemptions.

(c) *Public interest determination.* Notwithstanding the provisions of § 200.402(a) (concerning the closing of Commission meetings), but subject to the provisions of § 200.409(a) (respecting the right of certain persons to petition for the closing of a Commission meeting), the Commission may conduct any meeting or portion of a meeting in public where the Commission determines, in its discretion, that the public interest renders it appropriate to open such a meeting.

(d) *Nonpublic matter in announcements.* The Commission may delete from the notice of Commission meetings described in § 200.403, from the announcements concerning closed meetings described in §§ 200.404(b) and 200.405(c), and from the General Counsel's certification described in § 200.406, any information or description the publication of which would be likely to disclose matters of the nature described in § 200.402(a) (concerning the closing of Commission meetings).

§ 200.403 Notice of Commission meetings.

(a) *Content of notice.* (1) In the case of open meetings, or meetings closed pursuant to the procedures specified in § 200.404, the Commission shall announce the items to be considered. For each such item, the announcement shall include:

(i) A brief description of the generic or precise subject matter to be discussed;

(ii) The date, place, and aproximate time at which the Commission will consider the matter;

(iii) Whether the meeting, or the various portions thereof, shall be open or closed; and

(iv) The name and telephone number of the Commission official designated to respond to requests for information concerning the meeting at which the matter is to be considered.

(2) Every announcement of a Commission meeting described in this subsection, or any amended announcement described in § 200.403(c), shall be transmitted to the FEDERAL REGISTER for publication.

(b) *Time of notice.* The announcement of Commission meetings referred to in § 200.403(a) shall be made publicly available (and submitted immediately thereafter to the FEDERAL REGISTER for publication) at least one week prior to the consideration of any item listed therein, except where a majority of the members of the Commission determine, pursuant to § 200.403(c), that Commission business requires earlier consideration of the matter. In the event of such a determination, the announcement shall be made publicly available (and submitted to the FEDERAL REGISTER) at the earliest practicable time.

(c) *Amendments to notice.* (1) (i) The time or place of a meeting may be changed following any public announcement that may be required by § 200.403(a). In the event of such action, the Commission shall announce the change at the earliest practicable time.

(ii) The subject matter of a meeting, or the determination of the Commission to open or close a meeting (or a portion of a meeting), may be changed following any public announcement that may be required by § 200.403(a), if (A) a majority of the entire membership of the Commission determines, by a recorded vote, that Commission business so requires and that no earlier announcement of the change was possible; and (B) the Commission publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(2) Notwithstanding the provisions of this paragraph (c), matters which have been announced for Commission consideration may be deleted, or continued in whole or in part to the next scheduled Commission meeting, without notice.

(d) *Notice of meetings closed pursuant to special procedure.* In the case of meetings closed pursuant to the special procedures set forth in § 200.405, the Commission shall make publicly available, in whole or in summary form,

(1) A brief description of the general subject matter considered or to be considered, and

(2) The date, place, and approximate time at which the Commission will, or did, consider the matter. The announcement described in this subsection shall be made publicly available at the earliest practicable time, and may be combined, in whole or in part, with the announcement described in § 200.403(a).

NOTE.—The Commission intends, to the extent convenient, to adhere to the following schedule in organizing its weekly agenda: Closed meetings to consider matters concerning the enforcement of the federal securities laws and the conduct of related investigations will generally be held on Tuesdays and on Thursday afternoons. An open meeting will generally be held each Thursday morning to consider matters of any appropriate nature. On Wednesdays, either open or closed meetings, or both, will generally be held according to the requirements of the Commission's agenda for the week in question. Normally, no meetings will be scheduled on Mondays, Fridays, Saturdays, Sundays, or legal holidays.

The foregoing tentative general schedule is set forth for the guidance of the public, but is not, in any event, binding upon the Commission. In every case, the scheduling of Commission meetings shall be determined by the demands of Commission business, consistent with the requirements of this Subpart I. When feasible, the Commission will endeavor to announce the subject matter of all then-contemplated open meetings during a particular month at least one week prior to the commencement of that month.

When and if convenient after the conclusion of a closed Commission meeting, the Commission will endeavor to make publicly available a notice describing (subject to the provision in § 200.402(d) regarding nonpublic matter in announcements) the items considered at that meeting and any action taken thereon.

§ 200.404 General procedure for determination to close meeting.

(a) *Action to close meeting.* Action to close a meeting pursuant to § 200.402(a) or (c) shall be taken only upon a vote of a majority of the entire membership of the Commission. A separate vote of the Commission members shall be taken with respect to each Commission meeting a portion or portions of which are proposed to be closed to the public pursuant to § 200.402(a), or with respect to any information which is proposed to be withheld under § 200.402(d); *Provided, however,* That a single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed, or with respect to any information concerning such series of meetings, so long as each meeting in such series relates to the same matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Commission member participating in such vote shall be recorded and no proxies shall be allowed.

(b) *Announcement of action to close meeting.* Within one day of any vote pursuant to paragraph (a) of this section or § 200.409(a) (relating to review of Commission determinations to open a meeting), the Commission shall make publicly available:

(1) A written record reflecting the vote of each participating member of the Commission on the question; and

(2) In the case of a meeting or portion thereof to be closed to the public, a writ-

ten explanation of the Commission's action closing the meeting or a portion thereof, together with a list describing generically or specifically the persons expected to attend the meeting and their affiliation; and

(3) For every closed meeting, the certification executed by the Commission's General Counsel as described in § 200.406.

§ 200.405 Special procedure for determination to close meeting.

(a) *Finding.* Based, in part, on a review of several months of its meetings, as well as the legislative history of the Sunshine Act, the Commission finds that a majority of its meetings may properly be closed to the public pursuant to § 200.402(a) (4), (8), (9)(i), or (10), or any combination thereof.

(b) *Action to close meeting.* The Commission may, by recorded vote of a majority of its members at the commencement of any meeting or portion thereof, determine to close any meeting or a portion thereof properly subject to being closed pursuant to § 200.402(a) (4), (8), (9)(i), or (10), or any combination thereof. The procedure described in this rule may be utilized notwithstanding the fact that a meeting or portion thereof properly subject to being closed pursuant to § 200.402(a) (4), (8), (9)(i), or (10), or any combination thereof, could also be closed pursuant to § 200.402(a) (1), (2), (3), (5), (6), (7), or (9)(ii), or any combination thereof.

(c) *Announcement of action to close meeting.* In the case of a meeting or a portion of a meeting closed pursuant to this rule, as soon as practicable the Commission shall make publicly available:

(1) A written record reflecting the vote of each participating member of the Commission to close the meeting; and

(2) The certification described in § 200.406, executed by the Commission's General Counsel.

§ 200.406 Certification by the General Counsel.

For every Commission meeting closed pursuant to § 200.402(a) (1) through (10), the General Counsel of the Commission (or, in his or her absence, the attorney designated by General Counsel pursuant to § 200.21) shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision.

§ 200.407 Transcripts, minutes, and other documents concerning closed Commission meetings.

(a) *Record of closed meetings.* Except as provided in § 200.407(b), the Commission's Secretary shall prepare a complete transcript or electronic recording adequate to record fully the proceedings of each closed meeting, or closed portion of a meeting.

(b) *Minutes of closed meetings.* In the case of a meeting, or portion of a meeting, closed to the public pursuant to § 200.402(a) (8), (9)(i), or (10), the Secretary may, in his or her discretion or at the direction of the Commission, prepare either the transcript or recording described in § 200.407(a), or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each participating Commission member on the question). All documents specifically considered by the Commission in connection with any action shall be identified if such minutes are maintained.

(c) *Retention of certificate and statement.* The Secretary shall retain a copy of every certification executed by the General Counsel pursuant to § 200.406, together with a statement from the presiding officer of the meeting, or portion of a meeting to which the certification applies, setting forth the time and place of the meeting, and the persons present.

(d) *Minute Record.* Nothing herein shall affect the provisions of §§ 200.13a and 200.40 requiring the Secretary to prepare and maintain a Minute Record reflecting the official actions of the Commission.

§ 200.408 Public access to transcripts and minutes of closed Commission meetings; record retention.

(a) *Public access to record.* Within twenty days (excluding Saturdays, Sundays, and legal holidays) of the receipt by the Commission's Freedom of Information Act Officer of a written request, or within such extended period as may be agreeable to the person making the request, the Secretary shall make available for inspection by any person in the Commission's Public Reference Room, the transcript, electronic recording, or minutes (as required by § 200.407 (a) or (b)) of the discussion of any item on the agenda, except for such item or items as the Freedom of Information Act Officer determines to involve matters which may be withheld under § 200.402 or otherwise. Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication, as set forth in § 200.80e, and, if a transcript is prepared, the actual cost of such transcription.

(b) *Review of deletion from record.* Any person who has been notified that the Freedom of Information Act Officer has determined to withhold any transcript, recording, or minute, or portion thereof, which was the subject of a request for access pursuant to § 200.402 (a), or any person who has not received a response to his or her own request within the 20 days specified in § 200.408 (a), may appeal the adverse determination or failure to respond by applying for an order of the Commission determining and directing that the transcript, recording or minute, or deleted portion thereof, be made available. Such application shall be in writing and should be directed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. The applicant shall state such facts and cite such legal or other authorities as the applicant may consider appropriate. The Commission shall make a determination with respect to any appeal pursuant to this subsection within 20 days (excepting Saturdays, Sundays and legal public holidays) after the receipt of such appeal, or within such extended period as may be agreeable to the person making the request. The Commission may determine to withhold any record that is exempt from disclosure pursuant to § 200.402(a), although it may disclose a record, even if exempt, if, in its discretion, it determines it to be appropriate to do so.

(c) *Retention of record.* The Commission, by its Secretary, shall retain a complete verbatim copy of the transcript, or a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Commission proceeding with respect to which the meeting or portion was held, whichever occurs later.

§ 200.409 Administrative appeals.

(a) *Review of determination to open meeting.* Following any announcement stating that the Commission intends to open a meeting or a portion thereof, any person whose interests may be directly and substantially affected by the disposition of the matter to be discussed at such meeting may make a request, directed to the Commission's Secretary, that the meeting, or relevant portion thereof, be closed pursuant to § 200.402(a) (5), (6), or (7). The Secretary shall circulate such a request to the members of the Commission, along with a supporting statement provided by the requestor setting forth the requestor's interest in the matter and the reasons why the requestor believes that the meeting (or portion thereof) should be closed, and the Commission, upon the request of any one of its members, shall vote by recorded vote on whether to close such meeting or portion.

(b) *Review of determination to close meeting.* Following any announcement that the Commission intends to close a meeting or a portion thereof, any person may make written or telegraphic request, directed to the Commission's Secretary, that the meeting or a portion thereof be open. Such a request shall set forth the requestor's interest in the matter and the reasons why the requestor believes that the meeting (or a portion thereof) should be open to the public. The Secretary shall circulate such a request and supporting statement to the members of the Commission, and the Commission, upon the request of any one of its members, shall vote whether to open such a meeting or a portion thereof.

§ 200.410 Miscellaneous.

(a) *Unauthorized recordings; maintenance of decorum.* Nothing in this subpart shall authorize any member of the public to be heard at, or otherwise participate in, any Commission meeting, or

to record any Commission meeting or portion thereof by electronic or photographic devices. The Commission may exclude any person from attendance at any meeting whenever necessary to preserve decorum, or where appropriate or necessary for health or safety reasons, or where necessary to terminate behavior unauthorized by this subsection. Any person desiring to record or photograph an open Commission meeting may apply to the Commission's Secretary for permission to do so, setting forth the requestor's interest in the matter and the reasons why the requestor desires to record or photograph the Commission's proceedings. The Commission's determination whether or not to permit such conduct shall be confided to its exclusive discretion; *Provided, however,* That nothing herein shall preclude any person from taking notes at, or publicly or privately reporting on, the Commission's open meetings.

(b) *Suspension of open meeting.* Subject to the satisfaction of any procedural requirements which may be required by this subpart, nothing in this subpart shall preclude the Commission from directing that the room be cleared of spectators, temporarily or permanently, whenever it appears that the discussion during an open Commission meeting is likely to involve any matter described in § 200.402(a) (respecting closed meetings).

(c) *Access to Commission documents.* Except as expressly provided, nothing in this subpart shall authorize any person to obtain access to any document not otherwise available to the public or not required to be disclosed pursuant to Subpart D. Access to documents considered or mentioned at Commission meetings may only be obtained subject to the procedures set forth in, and the provisions of, Subpart D.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 2, 1977.

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1]

[Docket No. 76P-0470]

NUTRITION LABELING

Exemption for Certain Dairy Products

The Food and Drug Administration (FDA) is proposing to allow declaration of the fat content in the labeling of certain dairy products without requiring full nutrition labeling; comments by April 4, 1977.

The Commissioner of Food and Drugs, pursuant to a petition submitted by the Milk Industry Foundation (MIF), Washington, D.C., is proposing an exemption from the nutrition labeling requirements of § 1.17 (21 CFR 1.17). The exemption would permit certain dairy products listed in § 1.1c(a)(7)(i) (21 CFR 1.1c(a)(7)(i)) to include a declaration of the fat content in the ingredient statement without requiring full nutrition labeling. Section 1.17(a) currently requires that when any nutrition information, other than sodium content, is included on the label or in the labeling or advertising of a food, the food's label must bear full nutrition labeling; this has the effect, in the absence of the proposed exemption, of requiring nutrition labeling when the fat content is included on the labels of dairy products, which is required by some States. Those foods listed in § 1.1c(a)(7)(i) and required by Federal regulations, other than § 1.17, to bear a declaration of the milkfat content and/or nutrition labeling are not affected by this proposal. The Commissioner proposes to make the exemption effective upon publication of a final regulation in the FEDERAL REGISTER, and, pending publication of a final regulation, he is staying application of § 1.17 to declarations of fat content that comply with all provisions of the proposal. Comments concerning this proposal may be filed with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

The petitioner's requested revision of § 1.17 would add a new paragraph as follows:

> The fat content of any food listed in § 1.1c(a)(7)(i) may be declared in the ingredient statement for that food without compliance with this section, if the fat content is otherwise not referred to on the label or in labeling or in advertising.

As grounds in support of the proposal, the petitioner states that an inequitable situation exists regarding a least two States' labeling requirements for dairy products. The petitioner points out that laws in these States, established prior to the Federal requirement for nutrition labeling, require a declaration of milkfat content on virtually all dairy foods and that therefore, in order to comply with the provisions of § 1.17, full nutrition labeling is required.

The petitioner asserts that a statement of milkfat content has been used historically to identify and differentiate many dairy products and that such a decelaration is more a statement of identity than a statement of nutrition information. The petitioner concludes that "conveying product identification information in an ingredient statement was never intended to be a nutrient claim" and cites the exemptions afforded by § 1.17(h)(6) and (h)(7) in support of this proposition: Section 1.17(h)(6) applies to a nutrient(s) included in a food solely for technological purposes; § 1.17(h)(7) applies to a standardized food containing an added nutrient(s) and included in another food as a component. Both exemptions allow declaration in the ingredient statement without providing full nutrition labeling so long as neither the nutrient(s) nor the component is otherwise referred to on the label or in labeling or in advertising.

The full petition and a subsequent supplement are available for inspection from 9 a.m. to 4 p.m., Monday through Friday, at the office of the Hearing Clerk, Food and Drug Administration.

The Commissioner has considered the petition and concludes that a proposed exemption should be published for comment. However, the text of the exemption proposed by MIF might be construed as having the effect of exempting all foods listed in §1.1c(a)(7)(i) from the nutrition labeling requirements of § 1.17 when the milkfat content is declared in the ingredient statement, even though other reasons may exist for requiring nutrition labeling. The Commissioner is of the opinion that full nutrition labeling should be a consistent requirement for all vitamin and protein-fortified foods listed in § 1.1c(a)(7)(i), such as vitamin D milk and protein-fortified skim milk, that are required by Part 18 (21 CFR Part 18) to contain nutrition information in the name of the food.

In addition, the language employed in the petitioner's proposed regulation does not limit the exemption to a "percentage declaration" of the fat content as discussed in the petition.

The Commissioner, therefore, proposes a modification of the petitioner's proposal so as to allow a percentage declaration of the fat content, appearing solely in the ingredient statement, without "triggering" nutrition labeling. The Commissioner's proposal explicitly limits the exemption to those foods listed in § 1.1c(a)(7)(i) that are not required by other Federal regulations to bear full nutrition labeling. The Commissioner's proposal would permit the percentage declaration to refer to "fat," "milkfat," or "butterfat" content.

The Commissioner points out that fat is a naturally occurring component, not an added substance, in those products listed in § 1.1c(a)(7)(i). Therefore, it is not an "ingredient" within the meaning of sections 403(g)(2) and (i)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(g)(2) and (i)(2)). Hence, a declaration of the milkfat content in the ingredient statement would not mean that milkfat is an "ingredient" as this term is used in section 403 of the act. The Commissioner, though not considering milkfat to be an ingredient pursuant to the act, does propose that a declaration of the milkfat content be permitted to appear in the ingredient statement because the ingredient statement is considered to be the most appropriate place on the label for conveying this type of product information.

The Commissioner proposes that the declaration in the ingredient statement not be given undue prominence and that it appear on the information panel in a type size not larger than the minimum required by § 1.8b(i) (21 CFR 1.8b(i)) for declaration of net quantity of contents. Use of larger type size, or location of the percentage declaration elsewhere on the label, e.g., in the statement of identity, would be deemed a "nutrition claim" and require full nutrition labeling.

The Commissioner proposes to make the exemption effective upon publication of a final order in the FEDERAL REGISTER, and he advises that, pending issuance of a final regulation in this matter, he is staying application of § 1.17 to declarations of fat content that comply with all requirements of this proposal.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403(a), 701(a), 52 Stat. 1041 as amended, 1047 as amended, 1055 (21 U.S.C. 321(n), 343(a), 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)), it is proposed that § 1.17 be amended by adding new paragraph (h)(14) to read as follows:

§ 1.17 Food; nutrition labeling.

* * * * *

(h) * * *

(14) A percentage declaration of the fat (milkfat, butterfat) content appearing in the ingredient statement on the label of a food listed in § 1.1c(a)(7)(i) does not constitute a "nutrition claim or information" within the meaning of paragraph (a) of this section *Provided*, That:

(i) The declaration appears on the information panel (for requirements for information panels, see § 1.8d) with no greater prominence than any other printed matter appearing on the panel, and in a type size no larger than the minimum type size required by § 1.8b(i) for the declaration of net quantity of contents, and

(ii) The declaration is not required by other regulations in this chapter.

Interested persons may, on or before April 5, 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.

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: January 27, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-3222 Filed 2-3-77;8:45 am]

[21 CFR Parts 1, 8, 200, 201]

[Docket No. 77N-0009]

FD&C YELLOW NO. 5

Labeling in Food and Drugs for Human Use and Restriction on Use in Certain Human Drugs

The Food and Drug Administration (FDA) is proposing to require the label declaration of FD&C Yellow No. 5 when used to color foods and ingested drugs and to prohibit its use in certain drugs for human use. These restrictions are considered necessary because of mounting evidence of allergic-type reactions to FD&C Yellow No. 5. Interested persons have until April 5, 1977 to submit comments.

In the FEDERAL REGISTER of May 8, 1969 (34 FR 7447), the Commissioner of Food and Drugs issued an order listing FD&C Yellow No. 5 (also known as tartrazine when not certified by FDA for use in food, drugs, and cosmetics) for use in food under § 8.275 (21 CFR 8.275) and for use in ingested drugs under § 8.4175 (21 CFR 8.4175). This action was supported by safety data in a color additive petition (CAP 23) and other relevant data. The petition was submitted by the Certified Color Industry Committee, c/o Hazleton Laboratories, Falls Church, VA (now the Certified Color Manufacturers Association, 900 17th St. NW., Washington, D.C. 20006); notice of filing was published in the FEDERAL REGISTER of March 27, 1965 (30 FR 4083).

No specific restrictions were placed on the use of FD&C Yellow No. 5 other than the requirements of batch certification by FDA. The color is provisionally listed for use in externally applied drugs and in cosmetics under § 8.501(a). The closing date for this provisional listing is January 31, 1977. A proposal was published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41860) to postpone this closing date to December 31, 1980, conditioned upon the timely submission of reports from new chronic toxicity studies. Regulations finalizing this proposal are expected to be published in the near future.

An order listing FD&C Yellow No. 5 for use in externally applied cosmetics under § 8.7255 (21 CFR 8.7255) was published in the FEDERAL REGISTER of January 21, 1974 (39 FR 2358). However, the effective date of that order was stayed by the submission of objections to, among other things, certain restrictions that were to be placed on use of the color. Published elsewhere in this issue of the FEDERAL REGISTER is a notice announcing the stay of the effective date of that order.

DISCUSSION OF PROBLEM

Since FD&C Yellow No. 5 was listed for use in food and ingested drugs, evidence of allergic-type responses caused by ingestion of substances containing the color has accumulated. These responses to FD&C Yellow No. 5 occur primarily in patients who also have aspirin intolerance, although an absolute association has not been established. The phenomenon of aspirin intolerance in certain persons with underlying allergic disorders, including bronchial asthma, nasal polyposis, vasomotor rhinitis, and skin allergies to various substances, has been known for over 50 years. The aspirin reaction is manifested by asthmatic symptoms, urticaria, angioedema, or nasal symptoms. The overall incidence of aspirin intolerance in the United States is unknown. Samter and Beers (Ref. 1) cited a report by Pearson on a large asthmatic population in which 2.3 percent were said to be aspirin intolerant. Chafee and Settipane (Ref. 2), on the other hand, reported an incidence of 4.3 percent in their large population of asthmatics. These figures were obtained solely on the basis of clinical history. Chafee and Settipane found that among their patients with rhinitis, 0.7 percent were aspirin intolerant.

It has also long been known that some persons are sensitive to organic chemicals. However, the first person to report an association between FD&C Yellow No. 5 and allergic-type reactions was Lockey (Ref. 3. In 1959, Lockey reported generalized urticaria in three patients after ingestion of one or more tablets of a corticosteroid containing FD&C Yellow No. 5. The patients were an asthmatic, a patient known to be very sensitive to drugs of coal tar origin who was taking a steroid for a skin rash due to a topical mercurial, and a patient with a collagen disease who was known to be aspirin intolerant.

Since the 1960's, there has been increasing numbers of reports establishing that there is a strong association between aspirin intolerance and FD&C Yellow No. 5 intolerance. Chafee and Settipane (Ref. 4) described an asthmatic patient with aspirin sensitivity (angioedema) whose chronic asthma and acute attacks were exacerbated after taking certain antiasthmatic drugs, vitamins, premarin, and certain foods. In double-blind studies, she was reported to be allergic to FD&C Yellow No. 5 and, mildly, to FD&C Red No. 4. Drugs containing FD&C Yellow No. 5 could provoke symptoms with a single dose. On the basis of these findings, the authors recommended that FD&C dyes be required to be listed on food and drug packages.

The precise incidence of intolerance of FD&C Yellow No. 5 in the total population or even in aspirin-intolerant patients is not known. Over an 11-year period, Samter and Beers (Ref. 1) followed over 1,000 aspirin-intolerant patients diagnosed on the basis of history. They hospitalized for study 182 of these aspirin-intolerant patients. All were asthmatic, but they had had vasomotor rhinitis and nasal polyps for years before developing asthma. Of the 182 aspirin-intolerant patients, nine (5 percent) were intolerant of tartrazine, FD&C Yellow No. 5. In a double-blind study using some of these patients, 3 of 40 aspirin-intolerant patients (7.5 percent) receiving 25 milligrams of tartrazine developed symptoms.

Juhlin et al. (Ref. 5) found that seven of seven aspirin-intolerant patients developed asthma or urticaria to only 1 to 2 milligrams of tartrazine. One of the seven reacted only slightly to 1 milli-

gram but reacted strongly to 5 milligrams of tartrazine. Thus, these authors found a 100-percent incidence of tartrazine intolerance in their limited studies. Although the test was single blind, there were no reactors to a placebo. One of the patients had been taking an antihistamine containing only 30 micrograms of tartrazine per tablet for a month in an attempt to relieve urticaria which began after taking an aspirin tablet. There was no improvement in the urticaria until 3 days after the patient stopped taking the antihistamine.

Michaelsson and Juhlin (Ref. 6), in a study involving provocation tests with aspirin, azo dyes, and two commonly used food preservatives in patients with recurrent urticaria or angioedema, found that 39 of 52 patients developed a reaction to something—e.g., 35 of these had urticaria to aspirin; 19 to tartrazine (12 cases after 1 to 3 milligrams, the rest after 5 to 18 milligrams); and 22 to sodium benzoate (42 percent). There were also 10 cases of urticaria due to Sunset Yellow (FD&C Yellow No. 6) and some of these were not sensitive to tartrazine. It is not possible from this paper to ascertain the precise percentage of aspirin-intolerant patients who were also intolerant of FD&C Yellow No. 5, but it would appear to be about 50 percent

Settipane and Pudupakkam (Ref. 7) recently performed a tartrazine-placebo-controlled double-blind crossover study in 40 patients who had a history of aspirin intolerance and in 40 normal controls. Most of the aspirin-intolerant patients had asthma, the remainder had rhinitis and rhinorrhea. Many of these also had urticaria. The patients were challenged with 0.44 milligram of tartrazine or placebo (except for two who received 0.22 milligram). Six (15 percent) of the 40 aspirin-intolerant patients given tartrazine developed urticaria or bronchospasm, together with at least a 20-percent reduction in three pulmonary function tests. There were no reactions to the placebo, and none of the normal controls developed any reactions.

It is not possible to state precisely the incidence of intolerance to FD&C Yellow No. 5 in the United States. Further, there is a broad range of degree of intolerance, some patients reacting to a fraction of a milligram and others requiring 5 milligrams or more (the dosages found in foods). Using the incidence of 4.3 percent aspirin intolerance in a population of asthmatics and 0.7 percent in a population with rhinitis, as reported by Chafee and Settipane (Ref. 4) in their large practice involving over 3,781 patients with these diseases, calculations of the incidence can be estimated. In Chafee and Settipane's report, about half the patients had allergic rhinitis, only. The other patients had asthma alone or asthma plus rhinitis. The incidence of asthma in the United States is estimated to be 1 to 2 percent. Thus, if there are 2 to 4 million asthmatics in the United States and about a 4-percent incidence of aspirin intolerance in asthmatics, there could be 80,000 to 160,000 cases of aspirin intolerance among asthmatics. If Chafee and Settipane's practice is indicative of the relative incidence of asthma vs. allergic rhinitis, there are 2 to 4 million patients with allergic rhinitis, of whom 14,000 to 28,000 could be aspirin intolerant. Thus, a total of 94000 to 188,000 know aspirin-intolerant patients could be assumed. If it is further assumed that 50 percent of aspirin-intolerant patients are intolerant to FD&C Yellow No. 5, using Michaelsson and Juhlin's urticara and angioedema population (Ref. 6), then there would be 47,000 to 94,000 FD&C Yellow No. 5 intolerant patients.

The amount of FD&C Yellow No. 5 ingested is undoubtedly important in the potential provocation of a reaction. In many cases, however, it is not possible to ascertain the amount of FD&C Yellow No. 5 ingested by the people who reported the allergic-type symptoms to their physicians and, accordingly, the threshold value for provocation of a reaction to FD&C Yellow No. 5 has not been defined in the literature. The determination of the threshold amount may be particularly difficult in those persons who show allergic-type reactions to FD&C Yellow No. 5 only after having ingested the color additive in foods or drugs over a prolonged period. Samter and Beers (Ref. 1) tested one dose of 25 milligrams of FD&C Yellow No. 5 in 40 aspirin-intolerant patients, three of whom reacted positively. Juhlin et al. (Ref. 5), on the other hand, reported that some patients promptly showed allergic-type reactions after a single ingestion of as little as 1 milligram of tartrazine (FD&C Yellow No. 5).

The Food and Drug Administration has long been concerned about allergies involving food, drugs, and cosmetics. The Commissioner recognizes that many substances to which man is exposed, including those occurring in nature, may elicit allergic-type reactions in some unusually susceptible or idiosyncratic individuals. A great variety of materials has been implicated in allergic-type reactions, e.g., dusts of various kinds, pollens, feathers, insect fragments, bee stings, seeds, dandruff, and a number of foods. In general, hypersensitive persons may react by exhibiting a number of responses, which may include angioedema, urticaria, bronchial asthma, pruritis, and vascular purpura.

In evaluating the reports described above, the Commissioner concludes that there is no evidence in the available information on FD&C Yellow No. 5 that demonstrates a significant hazard to the general population when the color is used at current levels and in the manner now practiced. However, because of the evidence of a causal relationship between FD&C Yellow No. 5 and serious allegic-type responses in certain susceptible individuals, the Commissioner concludes that action must be taken to limit the potential for exposure of such persons to the color through ingestion of food or drugs.

There are no reports of reactions to FD&C Yellow No. 5 from external application and, accordingly, the use of the color additive in externally applied drugs and cosmetics is not considered to present a likelihood of allergic-type responses. Cosmetic articles such as mouthwashes, dentifrices, and lipsticks are also unlikely to induce allergic-type responses because of the very small amount of the cosmetic that may actually be ingested. Furthermore, as of May 31, 1976, all newly ordered labels for cosmetics have been required to declare the specific colors present. Under these circumstances, persons who are hypersensitive to FD&C Yellow No. 5 will, by careful review of the product labeling, be able to avoid cosmetic products containing the color. The Commissioner concludes, therefore, that no further action is required as to cosmetics in general or for externally applied drugs.

Proposal for Foods

Persons who know they are intolerant of FD&C Yellow No. 5 are likely to be selective in the types of foods that they use and, with appropriate label declaration would be able to avoid the potential hazard from allergic-type reactions to the color in food by reading the label. Accordingly, a label declaration of the presence of FD&C Yellow No. 5 in food for humans, whether added as the straight color, a mixture, or a lake, would enable persons intolerant to FD&C Yellow No. 5 to minimize exposure to the color.

The basis for the proposed action is the provision of section 706(b)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376(b)(3)), which provides that regulations for the listing of a color additive shall "prescribe the conditions under which such additive may be safely employed for such use or uses (including, but not limited to * * * and directions or other labeling or packaging requirements for such additive)." FD&C Yellow No. 5 has clearly been shown to produce allergic-type responses in humans and thus a requirement for label declaration of the color is justified. The evidence that other color additives may elicit similar responses is limited and, accordingly, the Commissioner concludes that similar labeling requirements should not be extended to other color additives at this time. Under the proposed amendment, foods containing colors other than FD&C Yellow No. 5 can continue to be labeled in accordance with the requirements concerning the label declaration of color additives prescribed by section 403 (i) and (k) of the act (21 U.S.C. 343 (i) and (k)), which permits declaration collectively as artificial color.

There is no evidence that any color, including FD&C Yellow No. 5, elicits allergic-type reactions in animals. Accordingly, label declaration of FD&C Yellow No. 5 in animal feeds and pet food would not be required.

The Commissioner concludes that labeling for food products should be revised as soon as possible to include the declaration of FD&C Yellow No. 5 among the list of ingredients. Therefore, he proposes that the effective date for this portion of the final regulation be 1 year after its date of publication in the FEDERAL REGISTER. The Commissioner believes this

will provide sufficient time to permit use of current stocks of labeling and revision of labeling to include a declaration of the presence of FD&C Yellow No. 5. Manufacturers could, of course, revise their labeling before the effective date of the regulation, and the Commissioner encourages them to do so.

PROPOSAL FOR DRUGS FOR HUMAN USE

The use of color additives in ingested drugs for human use is an old, accepted practice in the pharmaceutical industry. The use of color additives in drugs serves a necessary public health function because it permits drugs of identical size and shape to be distinguished. The distinction provided by the use of colors provides an important quality control tool in the dispensing of drugs to prevent mixups between otherwise similarly appearing drugs. The ability to distinguish among different products is also very important to persons taking many drugs, especially to the patient who may think in terms of taking a drug of a particular color rather than by the name of the drug. Color additives in drugs also assist in the identification of a drug in cases of accidental overdose.

Because yellow is a primary color, it is widely used as a color additive in drugs. Of the three yellow color additives available for use in ingested drugs, FD&C Yellow No. 5 is the most widely used. It is used to produce not only typically yellow shades but also variations of green, brown, orange, and other related colors. It is estimated that approximately 60 percent of all colored drug tablets for human use sold in the United States contains FD&C Yellow No. 5.

Thus, in view of the extent of use of FD&C Yellow No. 5, a substantial number of drugs would have to be reformulated if the color additive were prohibited in drugs for human use. Further, while reformulating their products to eliminate FD&C Yellow No. 5, some firms might decide to eliminate all color additives. The considerable time and effort necessary to reformulate drug products and the loss of product identification would be unimportant if considered necessary for the protection of public health and if there were no suitable alternative course of action. However, on the basis of the current information available concerning the nature and extent of the problem of intolerance of FD&C Yellow No. 5, the Commissioner believes that prohibiting all drug uses of FD&C Yellow No. 5 is not necessary for the protection of patients who are intolerant of FD&C Yellow No. 5, and that a labeling requirement similar to that for foods will be satisfactory.

The Commissioner concludes, however, that for drugs a simple listing of the color as FD&C Yellow No. 5 among the list of ingredients would not provide a sufficient safeguard for the person intolerant of FD&C Yellow No. 5. Generally, there is no uniform procedure for the declaration of ingredients on drug labeling; therefore, susceptible individuals might overlook such a listing. The listing of ingredients for ingested drug products has traditionally been used to designate active ingredients; consequently, listing of FD&C Yellow No. 5 may give an incorrect impression that it is an active ingredient. Finally, there may be physicians who are unaware that FD&C Yellow No. 5 may elicit allergic-type responses in certain susceptible individuals and for whom a simple listing would be inadequate.

For these reasons, the Commissioner concludes that the use of FD&C Yellow No. 5 in drugs should be declared in the form of a precautionary statement, i.e., "This product contains FD&C Yellow No. 5 which may cause allergic-type reactions in certain susceptible individuals".

This above decision would, of course, be subject to modification if new information becomes available indicating that the only way to protect sensitive persons would be to prohibit the use of FD&C Yellow No. 5.

Although a total prohibition against the use of FD&C Yellow No. 5 is not warranted, the Commissioner concludes that some action must be taken to limit the potential for exposure of these sensitive individuals to drugs containing FD&C Yellow No. 5. To achieve this objective, the Commissioner is proposing two alternative approaches for both over-the-counter (OTC) and prescription human drugs. In addition to comments on the proposals themselves, the Commissioner requests views concerning the advantages and disadvantages of the two alternative approaches.

OTC DRUG PROPOSAL I

The first proposal applicable to OTC drugs would amend the color additive regulations (21 CFR Part 8) to require that the presence of FD&C Yelow No. 5 be declared on the labels of all OTC drugs that are ingested as well as those that may be administered rectally or vaginally. A declaration of the presence of FD&C Yellow No. 5 on the label of these OTC drugs would enable persons who know they are intolerant of FD&C Yellow No. 5 to avoid drugs containing this color additive. Further, by having the presence declared on the label, physicians would more easily be able to identify persons intolerant of FD&C Yellow No. 5.

Under this proposal, the principal display panel of OTC drugs containing FD&C Yellow No. 5 that are ingested, as well as those that may be administered rectally or vaginally, would be required to contain the statement "This product contains FD&C Yellow No. 5 which is capable of producing allergic-type reactions in certain susceptible persons". The quantity of FD&C Yellow No. 5 would not have to be given.

OTC DRUG PROPOSAL II

Persons intolerant of FD&C Yellow No. 5, like many other persons, may take a variety of OTC drugs at one time or another to relieve or treat conditions or symptoms of a disease. Some of the drugs that may be taken are used to treat allergic or allergic-type conditions, including those allergic-type conditions that may arise as a result of ingestion of FD&C Yellow No. 5. As previously discussed, most persons reacting to FD&C Yellow No. 5 have other basic allergic problems including, in many cases, a sensitivity to aspirin. Thus, drugs used to treat allergic problems may be used widely by persons intolerant of FD&C Yellow No. 5. However, if a person intolerant of FD&C Yellow No. 5 is administered a drug containing FD&C Yellow No. 5 to treat an existing allergic problem, severe aggravation of the basic allergic condition may result. Further, in the haste of treating a serious allergic problem, a drug containing FD&C Yellow No. 5 could be taken by a person who knows he is intolerant even though the drug is labeled as containing the color additive. Likewise, a drug containing FD&C Yellow No. 5 could also be taken by a sensitive person to treat a serious allergic problem before the person's intolerance of FD&C Yellow No. 5 had been ascertained.

Another possibility which would not be resolved by the OTC Drug Proposal I is that all available drugs of a particular class that are used to treat a sensitive person's allergic condition might contain FD&C Yellow No. 5. Alternatively, the only drugs in a class which are effective for a person might all contain FD&C Yellow No. 5; thus, it could be impossible to select a drug free of FD&C Yellow No. 5.

In view of these considerations, the Commissioner is offering, as an alternative to OTC Drug Proposal I, a second proposal applicable to OTC drug products. This second proposal would include the labeling requirements of the first proposal plus a requirement that would prohibit the use of FD&C Yellow No. 5 in certain classes of drugs that are ingested, as well as those that may be administered rectally or vaginally. The classes of OTC drugs that would not be permitted under this proposal to contain FD&C Yellow No. 5 are analgesic, antihistaminic, cough and cold, oral nasal decongestant, and antiasthmatic drugs. These are the classes of OTC drugs that are most likely to be taken by persons intolerant of FD&C Yellow No. 5 to treat an allergic problem or as a substitute for aspirin.

PRESCRIPTION DRUG PROPOSAL I

The first proposal applicable to prescription drugs is a labeling requirement similar to that proposed for OTC drugs. In addition to a declaration of the presence of FD&C Yellow No. 5 on the label of all ingested prescription drugs (as well as those that may be administered rectally or vaginally) containing this color additive, the labeling required by § 201.100(d) (21 CFR 201.100(d)) would be required by proposed § 8.4175 (21 CFR 8.4175) to contain the statement "This product contains FD&C Yellow No. 5 which may cause allergic-type reactions in certain susceptible persons". This statement would be required to appear on the label and in the "How Supplied" section of the package insert, if present.

Although persons intolerant of FD&C Yellow No. 5 may not see the labeling on prescription drugs, they could remind their physicians of their intolerance. The physician could then avoid prescribing a drug containing FD&C Yellow No. 5 for

sensitive patients. In addition, as with OTC drugs, having the presence of FD&C Yellow No. 5 declared on the label would enable a physician to identify more easily persons intolerant of FD&C Yellow No. 5.

PRESCRIPTION DRUG PROPOSAL II

The second proposal applicable to prescription drugs would include the labeling requirements of the first prescription drug proposal and a prohibition against the use of FD&C Yellow No. 5 in seven classes of drugs. The following classes of ingested prescription drugs, as well as those that may be administered rectally or vaginally, would not be permitted to contain FD&C Yellow No. 5: analgesic drugs, antihistaminic drugs, cough and cold drugs, oral nasal decongestant drugs, antiathmatic drugs, nonsteroidal anti-inflammatory drugs, and glucocorticoid drugs.

The reasons for this proposal are the same as those set forth under OTC Drug Proposal II.

PROPOSED DRUG REGULATIONS

In the proposed drug regulations set forth below, the Commissioner has decided to propose only the second approach for both OTC and prescription drugs for human use because it provides an optimal degree of safe conditions of use for the color. The second approach, while including the provisions of the first, would be more restrictive. Therefore, the Commissioner believes that the proposed changes to Parts 8 and 201 that would be made if the first proposed approach (i.e., a labeling requirement for all drugs containing FD&C Yellow No. 5) were finalized are readily apparent and do not require presentation. Even though only the second approaches are set forth in the proposed regulations, the Commissioner requests comments on both the OTC and prescription drug proposals. The Commissioner is also interested in receiving comments on the availability of drugs that do not contain FD&C Yellow No. 5 within the five OTC drug classes and the seven prescription drug classes included in the proposal set forth below.

EFFECTIVE DATES

As with the food labeling proposal, the Commissioner believes that the effective date of the final regulations as it pertains to labeling drugs for human use should also be 1 year after the date of their publication in the FEDERAL REGISTER. He believes this will provide sufficient time for manufacturers to obtain new labels. Each drug for human use containing FD&C Yellow No. 5 labeled after 1 year after the date of publication of the final regulations in the FEDERAL REGISTER, should bear a label indicating the presence of FD&C Yellow No. 5.

If the second proposal were adopted, the effective date of the labeling portion of the final regulation would be 1 year as stated above. With respect to the classes of drugs that would have to be reformulated to remove FD&C Yellow No. 5, the Commissioner proposes to make this portion of the final regulations effective 6 months after their date of publication in the FEDERAL REGISTER. After the effective date of this portion of the final regulations, the use of FD&C Yellow No. 5 in the manufacture of any drug among the classes of drugs prohibited from containing FD&C Yellow No. 5, would render the drug adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and subject to regulatory action. Further, the Commissioner proposes that the distribution by a manufacturer of any drug prohibited from containing FD&C Yellow No. 5 eighteen months after the date of publication of the final regulations will cause the product to be adulterated and subject to regulatory action. The prohibition of FD&C Yellow No. 5 would apply to its use as a straight color, a lake, or mixtures of straight colors. The Commissioner is not proposing to recall from the market any drugs containing FD&C Yellow No. 5 if they were manufactured or in process within 6 months of the date of publication of the final regulations or were distributed for sale within 18 months of the date of publication of the final regulations.

Manufacturers of new drugs containing FD&C Yellow No. 5 may revise their labeling to conform to this proposal at the earliest possible time after the effective date of the final regulations and should not wait until their supplemental application submitted under § 314.8 (21 CFR 314.8) has been approved. If the second proposal were adopted, a manufacturer of a new drug containing FD&C Yellow No. 5 in one of the classes of drugs that would be prohibited from containing the color additive would be allowed to either delete the use of any color additive or substitute other color additives in accordance with § 314.8(d)(3) and (e) pertaining to supplemental new drug applications.

To be in compliance with § 314.8, the holder of a new drug application would be required to submit data providing the new composition and showing that the change in composition does not interfere with any assay or control procedure used in manufacturing the drug, or that the assay and any other control procedure have been revised to make them adequate. The supplement would be required to include data available to establish the stability of the revised formulation. If the data are to limited to support a conclusion that the drug will retain its declared potency for a reasonable marketing period, a commitment to test the stability of marketed batches at reasonable intervals and to submit the data as they become available is required. Additionally, there must be a commitment to recall from the market any batch found to fall outside the approved specifications for the drugs.

The articles and publications cited in this preamble are listed below. In addition, other articles and publications used in support of this proposal are listed. Copies of the journal articles and other information forming the basis for the proposed actions are on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

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(1) Samter, M. and R. F. Beers, "Concerning the Nature of Intolerance to Aspirin," Journal of Allergy, 40:281–293, 1967.

(2) Chafee, F. H. and G. A. Settipane, "Aspirin Intolerance, I. Frequency in an Allergic Population," Journal of Allergy and Clinical Immunology, 53:193–199, 1974.

(3) Lockey, S. D., "Allergic Reactions due to FD&C Yellow No. 5, Tartrazine, an Aniline Dye Used as a Coloring and Identifying Agent in Various Steroids," Annals of Allergy, 17:719, 1959.

(4) Chafee, F. H. and G. A. Settipane, "Ashma Caused by FD&C Approved Dyes," Journal of Allergy, 40:65, 1967.

(5) Juhlin, L., G. Michaelsson, and O. Zetterstrom, "Urticaria and Asthma Induced by Food-and-Drug Additives in Patients with Aspirin Hypersensitivity," Journal of Allergy and Clinical Immunology, 50:92, 1972.

(6) Michaelsson, G. and L. Juhlin, "Urticaria Induced by Preservatives and Dye Additives in Foods and Drugs," British Journal of Dermatology, 88:525, 1973.

(7) Settipane, G. A. and R. K. Pudupakkam, "Aspirin Intolerance, III. Subtypes, Familial Occurrence of Cross Reactivity with Tartrazine," Journal of Allergy and Clinical Immunology, 56:215, 1975.

OTHER ARTICLES AND PUBLICATIONS

(1) Speer, S., Management of Childhood Asthma, Springfield: Charles C. Thomas, 1958.

(2) Criep, L. H., "Allergic Vascular Purpura," Journal of Allergy and Clinical Immunology, 48:7, 1971.

(3) Yurchak et al., "Immunologic Studies with Aspirin, Clinical Studies with Aspiryl-protein Conjugates," Journal of Allergy, 46:245, 1970.

(4) Johnson, H. M. et al., "Tartrazine: Solid-phrase Radioimmunoassay Studies of an Azo Dye Implicated in Allergic Reactions (Azo dyes and Allergy)," (unpublished paper).

(5) Samter, M. and R. F. Beers, "Intolerance to Aspirin, Clinical Studies and Consideration of Its Pathogenesis," Annals of Internal Medicine, 68:975–983, 1968.

(6) Cohon, M. S., "Tartrazine Revisited," Drug Intelligence and Clinical Pharmacy, 9:198, 1975.

(7) Smith, L. V. and R. J. Slavia, "Drugs Containing Tartrazine Dye," Journal of Allergy and Clinical Immunology, 58:456, 1976.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 701, 706 (b), (c), and (d), 52 Stat. 1049–1051 as amended, 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 351, 352, 371, 376 (b), (c), and (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 Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

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

1. In § 1.12 by revising paragraph (c) to read as follows:

§ 1.12 Food labeling; spices, flavorings, colorings, and chemical preservatives.

* * * * *

(c) A statement of artificial flavoring, artificial coloring, or chemical preservative shall be placed on the food, or on its container or wrapper, or on any two or all three of these, as may be necessary to render such statement likely to be read by the ordinary person under customary conditions of purchase and use of such food. The specific artificial color used in food shall be identified on the labeling when so required by its listing in Part 8 to assure safe conditions of use for the color additive.

* * * * *

PART 8—COLOR ADDITIVES

2. In § 8.275(d) by redesignating the text that follows the *italicized* heading as paragraph (d)(1) and by adding new paragraph (d)(2) to read as follows:

§ 8.275 FD&C Yellow No. 5.

* * * * *

(d) *Labeling requirements.* (1) * * *

(2) Foods for human use that contain FD&C Yellow No. 5, including butter, cheese, and ice cream, shall specifically declare its presence by listing the color additive in the list of ingredients.

* * * * *

3. In § 8.4175 by revising paragraphs (b) and (c) to read as follows:

§ 8.4175 FD&C Yellow No. 5.

* * * * *

(b) *Uses and restrictions.* (1) Except for the categories of drugs for human use in paragraph (b)(2) of this section, FD&C Yellow No. 5 may be used for coloring ingested drugs in amounts consistent with good manufacturing practice.

(i) FD&C Yellow No. 5 may not be used in the following categories of ingested prescription drugs for human use as well as those that may be administered rectally or vaginally:

Analgesic drugs
Antihistaminic drugs
Cough and cold preparations
Oral nasal decongestants
Antiasthmatics
Nonsteroidal anti-inflammatory drugs
Glucocorticoid drugs

(ii) FD&C Yellow No. 5 may not be used in the following categories of ingested OTC drugs for human use as well as those that may be administered rectally or vaginally:

Analgesic drugs
Antihistaminic drugs
Cough and cold preparations
Oral nasal decongestants
Antiasthmatics

(c) *Labeling requirements.* (1) The label of the color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall conform to the requirements of § 8.32.

(2) Ingested drugs for human use (as well as those that may be administered rectally or vaginally) containing FD&C Yellow No. 5 shall bear the statement "This product contains FD&C Yellow No. 5 which may cause allergic-type reactions in certain susceptible individuals" on their label and in the labeling on or within the package, if any. For prescription drugs containing FD&C Yellow No. 5, the labeling required by § 201.100(d) of this chapter shall bear the statement "This product contains FD&C Yellow No. 5 which may cause allergic-type reactions in certain susceptible individuals". This statement shall be set forth in the "How Supplied" section of the labeling.

* * * * *

PART 200—GENERAL

4. In Subpart B by adding new § 200.55 to read as follows:

§ 200.55 Drugs for human use not permitted to contain FD&C Yellow No. 5.

Although § 8.4175 of this chapter provides for the use of FD&C Yellow No. 5 in most drugs, it prohibits FD&C Yellow No. 5 from being used in certain categories of systematically administered drugs for human use. If a drug within one of the categories of drugs for human use listed in § 8.4175 of this chapter contains any quantity of FD&C Yellow No. 5, the drug is deemed adulterated and subject to regulatory action.

PART 201—LABELING

5. In subpart C by adding new § 201.64 to read as follows:

§ 201.64 Declaration of presence of FD&C Yellow No. 5.

The labeling for each ingested over-the-counter drug for human use containing FD&C Yellow No. 5 (as well as those that may be administered rectally or vaginally) shall, as required by § 8.4175 of this chapter, bear the statement "This product contains FD&C Yellow No. 5 which may cause allergic-type reactions in certain susceptible individuals". The labeling statement shall appear on the principal display panel of the OTC drug product. A statement indicating the presence of FD&C Yellow No. 5 shall also appear on any labeling on or within the package.

6. In § 201.100 by revising paragraph (b)(6) and by adding new paragraph (b)(7) and (8) to read as follows:

§ 201.100 Prescription drugs for human use.

* * * * *

(b) * * *

(6) An identifying lot or control number from which it is possible to determine the complete manufacturing history of the package of the drug.

(7) For all ingested drugs containing FD&C Yellow No. 5, the statement "This product contains FD&C Yellow No. 5 which may cause allergic-type reactions in certain susceptible individuals" as required by § 8.4175 of this chapter.

(8) If a container is too small or otherwise unable to accommodate a label with sufficient space to bear all the required information but is packaged within an outer container from which it is removed for dispensing or use, the information required by paragraph (b) (2), (3), and (5) of this section may be contained in other labeling on or within the package from which it is to be dispensed, the information referred to in paragraph (b) (1) and (7) of this section may be placed on such outer container only, and the information required by paragraph (b)(6) of this section may be the crimp of the dispensing tube.

* * * * *

Interested persons may, on or before April 5, 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: January 28, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-3338 Filed 2-3-77;8:45 am]

[21 CFR Part 128d]

[Docket No. 76N-0298]

PROCESSING AND BOTTLING OF BOTTLED DRINKING WATER

Proposed Amendments to Current Good Manufacturing Practice Regulations

Correction

In FR Doc. 77-124 appearing at page 807 in the issue for Tuesday, January 4, 1977, in the fifth line of the third paragraph, "radium-225", should read "radium-226".

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 922]

[FHWA Docket No. 76-22]

SAFER OFF-SYSTEM ROADS PROGRAM

Notice of Proposed Rulemaking

• *Purpose.* The purpose of this document is to publish proposed rules for the administration of the safer off-system roads program. •

Section 135 of the Federal-Aid Highway Act of 1976 (Pub. L. 94-280) amended section 219 of title 23 of the United States Code by combining the off-system roads program established by section 122 of the Federal-Aid Highway Amendments of 1974 (Pub. L. 93-643) and the safer roads demonstration program established by section 230 of the Federal-Aid Highway Act of 1973 (Pub. L. 93-87).

The off-system roads program has been governed by 23 CFR Part 662 and the safer roads demonstration program has been governed by 23 CFR part 655, subpart E. Funds were previously apportioned to carry out these two programs and those programs will be administered under those regulations until all apportioned funds have been obligated or until the funds lapse. The sections of 23 CFR part 655, subpart E will not be revoked until the apportioned funds are obligated or lapse.

The procedures proposed in this notice are similar to those procedures which have proved successful in administering the off-system roads program; however, consistent with the legislative history of the safer off-system roads program, special emphasis will be placed on those projects which contribute to the safety of the traveling public.

The agency is especially interested in comments on the proposal in § 922.13(b) regarding a minimum bridge width of 20 feet on bus routes.

Inquiries may be addressed, and data, views and arguments concerning the proposed regulation may be submitted to the Federal Highway Administration, FHWA Docket No. 76-22, Room 4230, 400 Seventh Street, SW., Washington, D.C. 20590. All material received on or before March 16, 1977, will be considered. Copies of all written communications received will be available for examination during office hours from 7:45 a.m. to 4:15 p.m. Monday through Friday.

It is, therefore, proposed to amend title 23 of the Code of Federal Regulations by adding a new part 922 as set forth below.

PART 922—SAFER OFF-SYSTEM ROADS PROGRAM

Sec.

922.1 Purpose.
922.3 Definitions.
922.5 Objective.
922.7 Eligibility.
922.9 Distribution of funds.
922.11 Federal share payable.
922.13 Standards.
922.15 Simplified procedures.

AUTHORITY: 23 U.S.C. §§ 219, 315; 49 CFR 1.48.

§ 922.1 Purpose.

This regulation sets forth policies and procedures for implementing Section 219 of Title 23, United States Code, "Safer Off-System Roads."

§ 922.3 Definitions.

For the purpose of this regulation the following definitions shall apply:

(a) "Local road officials" means the duly elected or appointed officials of public authorities whose jurisdictions include off-system roads.

(b) "Maintained" means the preservation of the entire highway including surface, shoulders, roadsides, structures, and such traffic control devices as are necessary for its safe and efficient utilization.

(c) "Off-system road" means any toll-free road or street which is not on any Federal-aid system which is under the jurisdiction of and maintained by a public authority and is open to public travel.

(d) "Open to public travel" means except during scheduled periods, extreme weather conditions, or emergencies, the road section is passable by four-wheel standard passenger cars, and is open to the general public for use without restrictive gates, prohibitive signs, or regulation other than generally applicable traffic controls or restrictions based on size, weight, or class of registration.

(e) "Public authority" means a Federal, State, county, municipal, town, township, Indian tribe or other form of local government or instrumentality thereof with the authority to finance, build, operate or maintain toll-free highway facilities.

(f) "Roads and Streets" means any element normally considered to be a necessary and integral part of a highway facility including bridges, tunnels, railroad-highway crossings, drainage structures, traffic control devices, and guardrails and other protective structures.

(g) "State" means any one of the 50 States, the District of Columbia, or Puerto Rico.

(h) "State agency" means the State highway agency which is legally empowered to administer this program in cooperation with the Federal Highway Administration (FHWA) or such other State agency as may be legally empowered and suitably equipped and organized to administer this program, as designated by the governor of the State, and as approved by the Federal Highway Administrator.

§ 922.5 Objective.

The principal obective of the Safer Off-System Roads program is to construct, reconstruct, or otherwise improve off-system roads and streets with special emphasis on projects which contribute significantly to the safety of the traveling public.

§ 922.7 Eligibility.

Off-system roads as defined by § 922.3 (c) are eligible for improvement under this program.

§ 922.9 Distribution of funds.

(a) Each State shall make funds apportioned under this program available throughout the State on a fair and equitable basis. Each State shall ensure that projects are selected, designed, and constructed in a manner which will not discriminate against any person or community on the grounds of race, religion, color, national origin, or sex.

(b) In States where the State government is without legal authority to construct or maintain a project which is eligible under this program, the State shall enter into a formal agreement for construction or maintenance of the project with appropriate local road officials or other governmental agencies who do have such legal authority.

§ 922.11 Federal share payable.

The Federal share payable for this program shall be in accordance with the provisions of 23 U.S.C. 120 as they apply to projects on the Federal-aid secondary system.

§ 922.13 Standards.

(a) Design standards for projects implemented under this program shall be:

(1) Those standards, policies, and guides set forth in 23 CFR 625 or,

(2) Such individual standards, policies, and guides which have been or may be developed by local road officials in cooperation with the State and approved by the FHWA.

(b) Within the project limits, or immediately adjacent to a project, no bridge shall remain in place which has a width narrower than the approach roadway unless parapet protection and approach signing and pavement marking are provided. Except as approved by the FHWA, no bridge shall remain in place which (1) has a width less than the approach traveled way or (2) on a bus route has a width less than 20 feet.

(c) All projects shall be provided with traffic control devices in accordance with the Manual on Uniform Traffic Control Devices.[1]

§ 922.15 Simplified procedures.

The FHWA encourages the maximum use of such simplified procedures as may be appropriate for the types of projects which are expected to be implemented under this program. 23 CFR 655.506 and 23 CFR 655.104 provide excellent guidance on simplification for certain types of projects. In addition, by agreement between the State and the FHWA projects under this program may be administered in the same manner as certain other Federal-aid projects are administered under the terms of an approved State Certification, a Secondary Road Plan agreement pursuant to 23 U.S.C. 117, or any such other procedures which are approved.

NOTE.—The Federal Highway 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.

Issued on January 27, 1977.

L. P. LAMM,
Acting Federal Highway Administrator.

[FR Doc.77-3490 Filed 2-3-77;8:45 am]

[1] The Manual on Uniform Traffic Control Devices (Stock Number 5001-00021) may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

POSTAL SERVICE

[39 CFR Part 111]

THIRD CLASS

Proposed Identification of Mail of Nonprofit Organization

AGENCY: U.S. Postal Service.

ACTION: Proposed Rule.

SUMMARY: This proposed rule would require an organization authorized to mail at the special bulk third-class rates for qualified nonprofit organizations to put its own name on the envelope and letterhead of its mail. Such an organization would not be allowed to use a pseudonym or a bogus name of a person or organization on its mail. The purpose of the rule is to avoid the appearance of unqualified mailings, as would be the case if the name of an individual or a commercial enterprise were to appear on the envelope or letterhead.

DATES: Comments must be received on or before March 7, 1977.

ADDRESSES: Written comments should be directed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D. C. 20260

FOR FURTHER INFORMATION CONTACT: James F. Harding, 202–245–4513.

SUPPLEMENTARY INFORMATION: Under the provisions of 39 CFR 111.3 the Postal Service is proposing to add the above-described rule as new 134.58 to the Postal Service Manual, chapter I of which has been incorporated by reference in the FEDERAL REGISTER, see 39 CFR 111.1. Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking, 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of the Postal Service Manual:

PART 134—THIRD CLASS

In Part 134 of the Postal Service Manual add new .58 reading as follows:

134.58 IDENTIFICATION

In order to avoid the appearance of mailing having been made by individuals or commercial enterprises, which are not qualified to mail at the special bulk third-class rates for qualified nonprofit organizations, the mailing piece of a nonprofit organization must be identified by using on the letterhead and on the envelope the name of the authorized permit holder. Pseudonyms or bogus names of persons or organizations may not be used.

An appropriate amendment to 39 CFR 111.3 to reflect this change will be published if the proposal is adopted.

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-3610 Filed 2-3-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 35]

[FRL 672-5]

GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Cost Effectiveness Analysis Guidelines

The purpose of these proposed guidelines is to amend and supplement the Cost Effectiveness Analysis Guidelines (40 CFR, Part 35, Subpart E—Appendix A). This proposed amendment responds to numerous requests from consulting engineers and others concerned with the grant program for more specific guidance covering the determination of treatment works sizes and capacities. This proposed amendment is intended to provide for cost-effective facility sizes and sufficient reserve capacity and, at the same time, to avoid overdesign.

Coverage includes guidelines and alternative procedures for forecasting growth of population, for estimating wastewater flows, for determining cost-effective construction staging periods, and for providing extra capacity beyond that determined to be cost-effective.

The Cost Effectiveness Analysis Guidelines, contained in Appendix A of 40 CFR, Part 35, Subpart E, were published pursuant to Sections 204 and 212 of the Federal Water Pollution Control Act Amendments of 1972 (the Act). Section 212(2)(C) requires that the Environmental Protection Agency (the Agency) publish and thereafter revise no less often than annually, guidelines for the evaluation of treatment works including cost-effective analysis. Section 204(a)(5) requires that the size and capacity of treatment works relate directly to the needs to be served by the works, including sufficient reserve capacity and, further, that the reserve capacity provided shall be approved by the Agency on the basis of a comparison of the cost of constructing such reserves as a part of the works to be funded and the expected cost of constructing reserve capacity when needed. This proposed amendment complies directly with the Section 212 requirement for annual revision of the Cost Effectiveness Analysis Guidelines by providing further directions for meeting the reserve capacity requirements of Section 204(a)(5).

Persons preparing facility plans have frequently requested guidance and assistance in determining the capacity of treatment works and acceptable allowances for accommodating future growth. Moreover, in-depth reviews of a sample of facility plans submitted during the past two years have indicated a need for more specific guidelines on the sizing of treatment works to avoid overdesign.

The original draft version of these amended guidelines, together with draft technical reports, was prepared this past July and circulated among many concerned organizations for review and comments. The original version has since been rewritten to incorporate many of the excellent comments received from these organizations. These include the Council on Environmental Quality, the Natural Resources Defense Council, the State-Federal Water Programs Advisory Committee, the Technical Advisory Group to the Office of Water Program Operations in the Agency, the Technical Practices Committee of the Water Pollution Control Federation, the American Society of Civil Engineers, the American Concrete Pipe Association, the ten EPA regional offices and others.

The Agency believes that the forecasts of population and economic activities for individual small areas such as facility planning areas should be consistent with regional, State and national projections. Thus, the proposed guidelines would base the population and economic activity forecasts presented in facility plans on a disaggregation of National and State projections for population and economic activity. The Bureau of Economic Analysis (BEA) of the Department of Commerce is preparing a set of State population and economic activity projections, based upon a disaggregation of national projections, under a contract with the Agency. Draft projections are to be distributed to the States for their review and comments by January 1977. Completion of a final set of projections is scheduled for May 1977. As indicated in the proposed guidelines, the States will be expected to disaggregate their projections among Standard Metropolitan Statistical Areas (SMSA's) and counties. Then, Section 208 areawide planning agencies and other regional planning agencies, working with the State, will be expected to disaggregate the SMSA projections among facility planning areas. Population forecasts for facility plans consistent with the county projections within non-SMSA counties are to be prepared by the State.

The Agency believes that wastewater flow estimates to be used for the design of treatment works should reflect a realistic assessment of the contributions of dry and wet weather flows applicable in each case. This principle recognizes that per-capita dry weather flows will vary depending upon the size and economic status of the community and the water usage practices of its population. The infiltration and inflow components of wastewater flow depend upon numerous situation-specific factors and are to be estimated on a case-by-case basis in accordance with existing "Guidance for Sewer System Evaluation" and the Technical Report, "Handbook for Sewer System Evaluation and Rehabilitation".

The proposed guidelines set forth three alternative methods for estimating the Annual Average Dry Weather Flows from Residential, Commercial and Institutional Sources in order to ensure that dry weather flow estimates covering a wide range of possible circumstances are realistic. The first two methods require some analysis by the grantee or the State and

are self explanatory. The third method, which is most applicable to relatively stable or moderate growth communities with limited seasonal population variation, permits use of a gallon per-capita per-day (gpcd) allowance appropriate for the population size range of the community. The gpcd figures presented in the guidelines are conservative allowances based upon a comprehensive review of several reports and studies of residential and commercial water use.

The volume of future industrial flows, i.e. flows in excess of those presently existing, to be introduced to a wastewater treatment plant cannot be predicted with any certainty because of many variables. For example, the future location of industries, industrial pretreatment requirements, the extreme variation in industrial processes, the variation in flows generated by processes utilized in the same industry and the effects of trends toward resource recovery and recycling are factors which will influence the amount of new industrial flows to be served by a municipal wastewater treatment facility. However, it is necessary to make provisions which are reasonable and cost-effective for such future industrial growth. The proposed guidelines permit the design capacity of a treatment works to include a nominal allowance for unforeseen future industrial flows. The total industrial flow of a treatment works may include the existing industrial flow, additional industrial flows which can be foreseen, and the nominal allowance for unforeseen future industrial flow. Existing flows from significant industries and all expected additional future industrial flows must be documented by commitments from concerned industries during the Step 1 facility planning process.

A major objective of the construction grants program is to develop cost-effective wastewater treatment facilities, to help achieve this objective the Agency has established a policy requiring wastewater treatment works capacity to be added in stages to accommodate future flow and waste load increases. The proposed guidelines would require the initial staging period for treatment plants to be based largely on minimizing total present-worth costs over a 20 years planning period. The optimum length of the staging period for the construction of treatment plants depends largely upon the economy of scale factor, the interest rate used in the analysis and the rate of flow-growth over time. Three alternative methods for choosing the staging period for treatment plants are presented in the proposed guidelines. The first method calls for a case-by-case determination of the optimum staging period. The second method covers development by the state of staging period guidelines. The third method involves selecting from a tabulation an appropriate initial staging period corresponding to a given rate of flow-growth and an initial flow. A proposed draft report presents a general step-by-step approach for calculating staging periods on a case-by-case basis under the first method. This report also relates the assumptions and procedure to be utilized in developing the staging period tabulation under the second method. A copy of the draft report, "Methodology and Assumptions Used to Determine Acceptable Staging Periods for Treatment Plant Capacity" can be obtained by writing to Mr. Michael B. Cook, Chief, Facility Requirements Branch, Office of Water Program Operations, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460.

The Agency has investigated factors affecting the cost-effective design of interceptors and has determined that pipe locations and the staging of pipe lengths generally outweigh pipe size (diameters for circular pipes) in evaluating direct monetary costs, primary environmental impacts, and secondary impacts associated with the effects of induced growth. Studies made by the Agency have indicated that there is little difference in the total present-worth costs between a system where one pipe is sized initially to convey flows for 20 years and an additional pipe is to be constructed in 20 years to serve the increase in flows for another 20 years, and a system where one pipe is designed initially to convey flows projected for 40 years. As a result interceptor pipe sizes are to be based upon a staging period range from 20 to 40 years. Since the guidelines include only general guidance on peak flows, comments are requested concerning what more specific guidance should be added.

The marked influence of the location of interceptors and collection system on future growth rates and growth patterns has been reported frequently. The proposed guidelines would require grantees to consider primary environmental impacts, including damage to aesthetic values and the disruption of traffic and business, and secondary environmental impacts stemming from the encouragement of unplanned growth and rezoning pressures in determining the location and size of interceptors.

Certain States and municipalities have requested a means of providing for treatment works capacity beyond that indicated to be necessary by a cost-effectiveness analysis of present and future wastewater treatment needs. Such additional capacity has been sought to help meet State or local economic development objectives or to readily accommodate uncertain future municipal or industrial growth, even though such capacity is not supported by State, SMSA or county projections for population and economic growth.

The proposed guidelines would permit grantees to provide for additional capacity for treatment works beyond their cost effective capacity in special cases. Such provision would depend upon:

1. Agreement by the grantee to bear the costs of constructing additional capacity,

2. A finding that the project as a whole complys with NEPA and all other Federal laws and regulations, and

3. Aceptance by the grantee of a release or appropriate grant condition providing that the Federal government is protected from any future claim by the grantee, the State or any other party for any of the costs of construction associated with the additional capacity.

Grant eligible costs would be determined by multiplying the actual costs of the treatment works by the ratio of the design flow of the cost-effective project which the Agency approves to the design flow of the proposed project. This proportional approach was selected because the determination of the actual cost difference between the treatment works to be built and the most cost-effective or least-cost project would require detailed designs and cost estimates for the latter as well as for the actual project.

Under Section 203(a) of the Act, the Agency's approval of plans and specifications for a proposed treatment works is deemed a contractual obligation of the United States for the payment of its proportional contribution to such projects. This contribution generally is 75 per cent of the cost of construction of the treatment works under Section 202 (a) of the Act. However, for purposes of funding projects where grantees desire to construct treatment works with capacities greater than the capacity of cost-effective or least-cost projects according to the Agency's standards, the Agency interprets its proportional contribution to such project under Section 203(a) to be 75 per centum of the grant eligible cost determined under the above ratio. Nevertheless, the Agency would require approval authority over the plans, specifications and estimates for the actual project to be constructed.

The time span during which well-designed wastewater conveyance pipes and tunnels can be expected to function would normally be at least 50 years. For this reason, the Cost Effectiveness Analysis Guidelines would be amended to assign wastewater conveyance structures a 50 year service life rather than include these structures within a 30-50 year service life category.

The amended guidelines, except for the section on population projections, would apply to all facility plans prepared under Step 1 grants awarded after the effective date of the guidelines. For facility plans already underway, these proposed guidelines should be followed if any doubts exist about the Agency's acceptance of the capacity of proposed treatment works. The section on population projections shall apply to Step 1 grant awards made after March 31, 1978 to allow a reasonable time for the process of disaggregation, and review and approval of State and SMSA population projections.

Interested persons are invited to comment on the proposed changes to the Cost Effectiveness Analysis Guidelines (Appendix A). In order to be considered, all comments must be submitted in triplicate to the Director, Grants Administration Division (PM-216), Attention: Cost Effectiveness Analysis Guidelines, Environmental Protection Agency, Washington, D.C. 20460. All comments received on or before March 21, 1977 will be carefully considered prior to the promulgation of the final guidelines. Comments will be retained on file at the Public Information Reference Unit, EPA Headquarters, Room 2922, Water-

side Mall, 401 M Street S.W., Washington, D.C. and may be inspected workdays between 8 a.m. and 4:30 p.m. at that location.

Dated: January 28, 1977.

JOHN QUARLES,
Acting Administrator.

Appendix A to Part 35 is amended as follows:

1. Section a. is amended by substituting the following for the present statement of purpose.

a. *Purpose.* These guidelines represent Agency policies and alternative procedures for determining the most cost-effective waste treatment management system or the most cost-effective component part of any waste treatment management system.

2. Section f. (7) is amended by deleting the provisions concerning "Structures" and substituting the following:

f. *Cost-effective analysis procedures.* * * *

(7) *Service life.* * * *

* * * * *

Wastewater Conveyance Structures ---------- 50 years (includes collection systems, outfall pipes, interceptors, force mains, tunnels, etc.)

Other Structures ---------- 30-50 years (includes plant buildings, concrete process tankage, basins, lift station structures, etc.)

* * * * *

3. Section d. is amended by adding a provision defining "Disaggregation" as follows:

d. *Definitions.* * * *

* * * * *

(6) *Disaggregation.* The result of breaking down a sum total of population or economic activity for a State or other jurisdiction (i.e., an SMSA) into portions, each representing a smaller area or jurisdiction, of the sum total.

4. The following sections are added:

g. *Cost-Effective Staging and Sizing of Treatment Works*—(1) *Population projections.* The population and economic activity forecasts presented in individual facility plans shall be based upon a disaggregation of State projections of economic activity and population. These State projections shall be those developed in 1977 by the Bureau of Economic Analysis (BEA), Department of Commerce unless the use of alternative projections prepared by the State has been approved by the Regional Administrator. Unless fully justified, any substantial deviations from the BEA projections shall not be approved.

Each State, working with designated 208 planning agencies and other regional planning agencies in non-designated areas of the State, is to disaggregate the State projection among its Standard Metropolitan Statistical Areas (SMSA's)—or other appropriate urban units—and its remaining counties. Individual 208 areawide or other regional projections in non-designated areas should be reviewed and, with any necessary adjustments, used for the disaggregation. The sum of the county and SMSA projections so obtained shall not exceed the State projection. The disaggregations are to be developed as an interim output of the Statewide Water Quality Management planning process and submitted to the Regional Administrator for approval no later than September 30, 1977. The submission shall include a list of all SMSA's and all counties outside SMSA's showing the projected population total for that SMSA or county for 1975, 1980, 1990 and 2000. The disaggregations of the State population totals will be reviewed by the Regional Administrator for approval prior to December 31, 1977.

Upon approval of the State projection totals and disaggregations they shall be used thereafter for areawide water quality management planning as well as for facility planning and the "Needs" surveys. Within areawide 208 planning areas, the designated agencies, in consultation with the States, shall disaggregate the SMSA projections among the facility planning areas within the SMSA. For those SMSA's not included within designated 208 planning areas, each State, with assistance from appropriate regional planning agencies, shall disaggregate the SMSA projection among the facility planning areas and to the remaining area within the SMSA. Facility plans for SMSA's, for which Step 1 grants are awarded after March 31, 1978, shall follow estimated populations determined by the above disaggregations. The State shall check the facility planning area forecasts to assure their reasonableness and consistency with the SMSA projections.

For non-SMSA facility planning areas, each grantee is to forecast future population growth simply by a linear extrapolation of the recent past (1960 to 1975) population trends for the planning area or by making use of correlations of planning area growth with population growth for the County or other larger parent area population. A population forecast may be lowered below that indicated by past trends where a declining rate of economic growth is being experienced. A population forecast may be raised above that indicated by the extension of past trends where likely impacts of new energy developments or large new industries would justify such departures and such justification is documented in the facility plan. In such cases, population forecasts should be based on estimates of new employment to be generated. The State shall check individual population forecasts to assure reasonable consistency with overall projections for non-SMSA counties and sufficient justification for any departures from past trends.

(2) *Wastewater Flow Estimates.* In determining total average annual flows for the design of treatment works, the flows to be considered include the average annual dry weather flows expected from residetial sources, non-residential sources, commercial sources, institutional sources, and industries to be served by the works plus allowances for future industries and non-excessive infiltration/inflow. The amount of non-excessive infiltration/inflow is to be determined in accordance with the Agency Guidance for Sewer System Evaluation and the Agency Technical Report, entitled "Handbook for Sewer System Evaluation and Rehabilitation".

The determination of Annual Average Dry Weather Flows (AADWF) from combined residential, commercial and institutional sources shall be based upon one of the following methods:

(a) First Method. Existing AADWF would be estimated based upon a fully documented analysis of water use records adjusted for consumption and losses or on records of wastewater flows for extended dry periods less estimated dry-weather infiltration. Future flows for the treatment works design should be estimated by determining the existing per-capita flows based upon existing sewered resident population and multiplying this figure by the future projected population to be served. In the event the total seasonal population far exceeds the resident population (e.g., resort communities), future flows could be estimated by substituting the total of the existing and projected seasonal sewered populations in the above calculation.

This method is particularly applicable to facility planning areas which include institutions or commercial establishments serving a large nonresident population or to areas with large seasonal population variations.

(b) Second Method. The State may develop per-capita waste-water flow allowances for various community sizes and other criteria as an option to the first method. These per-capita wastewater flow allowances should take into account the characteristics of the State and geographic areas within the State. Should a State choose this option, the State shall submit its recommendations and supporting data to the Regional Administrator. Upon approval of the Regional Administrator, the grantee shall use either the first method or the per-capita flow allowance prepared by the State under the second method in preparing facilities plans in that State.

(c) Third Method. Existing and future AADWF would be estimated by multiplying the appropriate gallon per-capita-per-day (gpcd) allowance according to the following table by the estimated total of the existing and future resident populations to be served. The tabulated allowances, based upon several studies of municipal water use, include estimates for commercial and institutional sources as well as residential sources.

	GPCD
Non-SMSA Cities and Towns with projected total 10-year populations of 5,000 or less.	70
Non-SMSA Cities and Towns with projected total 10-year populations of 5,000 to 10,000.	80
SMSA Planning Areas and other non-SMSA Cities.	90

Allowances for future increases of per-capita flows over time will not be approved unless a complete justification for such increases is provided and conservation factors tending to decrease per-capita flows have been fully analyzed in the facility plan. Such conservation factors include water conservation habits induced by future higher water prices, future metering in unmetered areas, trends toward discontinuance of volume discount pricing and more water-efficient plumbing fixtures and appliances in new households.

The total treatment works design flow capacity may include allowances for industrial flows. Such allowances may include capacity needed for industrial flows presently served by the existing treatment works. However, such flows shall be carefully reviewed and means of reducing them shall be considered. Capacity needs for existing flows from significant industrial users and for future flows from all industries intending to increase their flows or relocate in the area must be documented by letters of commitment to the grantee. These letters are not to be confused with the letters of intent required for significant industrial dischargers in accordance with 40 CFR 35.925-12 (industrial cost recovery and user charges). Industries submitting letters of commitment must request a capacity reservation, and indicate a willingness to pay operation and maintenance charges and Industrial Cost Recovery for such capacity.

There are many uncertainties in forecasting future industrial flows, but there is a need to allow for some unforeseeable future industrial growth. Thus, the design capacity and flow of the treatment works may include, in addition to the existing industrial flows and future industrial flows which are documented by letters of commitment, a

nominal flow allowance for future non-identifiable industries or for unforeseeable industrial expansions. This additional allowance for future unforeseen industrial flow which is eligible for grant funding shall not exceed 10 percent of the total design flow of the treatment works exclusive of the allowance of 25 percent of the total industrial flow (existing plus documented future), whichever is greater.

(3) *Staging of Treatment Plants.* The capacity of treatment plants, i.e., new plants, upgraded plants or expanded plants, to be funded with construction grant funds shall not exceed that necessary for wastewater flows projected during an initial staging period determined pursuant to one of the following methods:

(a) First Method. At least three alternative staging periods (10 years, 15 years and 20 years) shall be analyzed and the least-cost, i.e. total present worth or average annual cost, staging period should be selected.

(b) Second Method. The staging period shall not exceed the period which is appropriate according to the table.

Staging periods for treatment plants

Flow growth factor (20 yr) [1]	Maximum initial staging period (years)	
	Qo<1MGD	Qo>1MGD
1.3 or less	20	20
1.4 to 1.7	20	15
1.8 or greater	10	10

[1] Ratio of wastewater flow expected at end of 20-yr planning period to initial flow when plant is expected to become operational (Q20/Qo).

A municipality may stage the construction of a treatment plant for a shorter period than the maximum allowed under this policy if such a decision is adequately justified. The justification might be based upon an objective concerning planned modular construction, the utilization of temporary treatment plants, or attainment of consistency with locally-adopted plans including comprehensive and capital improvement plans. However, in no case should the staging period be less than five years, because of associated cost penalties and the time necessary to plan, apply for and receive funding, and construct later stages.

The design parameters for the proposed treatment plant shall be presented in the facility plan. Whenever the sizes or capacities of proposed treatment plant components would exceed the minimum reliability requirements suggested in the EPA technical bulletin "Design Criteria for Mechanical, Electric, and Fluid System and Component Reliability," a complete justification, including supporting data, shall be provided to the Regional Administrator for his approval.

(4) *Staging of Interceptors.* Since the location and length of interceptors are more important than size in influencing growth, interceptor routes shall be planned carefully for staged construction to serve existing developments and those areas where development is well underway. An interceptor may be provided in the initial stage to phase out or eliminate existing point source discharges and to accommodate flows from existing developments or areas where development is well underway. Unless necessary to meet these objectives, interceptors shall not be extended into undeveloped areas. Additional interceptors or lengths of an interceptor may be added in the future, when and as required, to phase out additional point source discharges or to handle expected flows from new developments. The location and sizing of interceptor sewers shall not conflict with other approved environmental plans (e.g. 208 and air quality plans) for the facility planning area.

Interceptor pipe sizes (diameters for circular pipes) allowable for construction grant funding shall be based upon a staging period range of from 20 to 40 years, since direct monetary costs vary little within this range. Since the projection of population and flows beyond 20 years is highly conjectural, the pipe size may be based upon a staging period of 20 years and an assumption that the pipe, at peak flow, will be flowing at half depth at that time.

The following factors favor longer staging periods because such periods (larger pipe sizes) mean fewer pipes and less frequent installation:

(1) less disruption of traffic, business and other daily activities

(2) decreased primary environmental impacts such as destruction of flora and fauna, noise, erosion and sedimentation.

Factors favoring shorter staging periods are:

(1) less pressure to rezone or otherwise facilitate unplanned development

(2) less pressure to accelerate growth for quicker recovery of the non-Federal share of the interceptor investment.

The estimation of peak flows in interceptors shall be based upon the following considerations:

(a) daily and seasonal variations of pipe inflows, the timing of inflows from the various parts of the tributary area and pipe storage effects.

(b) the feasibility of off-pipe storage to reduce peak flows.

(c) the use of an appropriate peak flow factor that decreases as the average daily flow to be conveyed increases.

(5) *State guidelines.* In the event a State has developed or choses to develop comprehensive guidelines on cost-effective sizing and staging of treatment works, the Regional Administrator may approve all or portions of the State guidance for application to Step 1 facility plans in that State in lieu of corresponding portions of this subsection g. of these Guidelines.

h. *Additional capacity beyond the cost-effective capacity.* Treatment works projects which propose to include additional capacity beyond the cost-effective capacity determined in accordance with these Guidelines may receive Federal grant assistance if the following requirements are met:

(1) The facility plan shall determine the most cost-effective project and its associated capacity in accordance with these Guidelines. The facility plan shall also determine the actual characteristics of the project to be built and its total capacity.

(2) Only a portion of the cost of the entire proposed project including the additional capacity shall be deemed eligible for Federal funding. The portion of the cost of construction which shall be deemed eligible for Federal funding under Section 203(a) and 202(a) of the Act shall be that proportion of the actual construction costs allocable, on a proportional basis, to the capacity equivalent to that of the most cost-effective project. The costs of construction eligible for grant assistance under the above sections of the Act shall be determined by multiplying the actual costs of construction by the ratio of the capacity and design flow of the cost-effective project to the capacity and design flow of the proposed project.

(3) The entire proposed project to be built shall be assessed and determinations must be made that is in compliance with the National Environmental Policy Act and all other applicable laws, regulations and guidance. Particular attention should be given to assessing the potential secondary environmental effects of the project. The new discharge flow must meet water quality standards. The plans, specifications, and estimates for the entire proposed project shall be approved by the Regional Administrator pursuant to Section 203(a) of the Act, notwithstanding that EPA will be funding only a portion of the designed capacity of the proposed project.

(4) The grantee shall provide satisfactory assurances to EPA that the funds for the costs of construction associated with the additional capacity beyond the capacity of the cost-effective treatment works as determined by EPA, the ineligible portion of the project, as the local share of the grant-eligible portion of the cost of construction of the project, will be available.

(5) Appropriate grant conditions or releases shall be executed by the grantee providing that the Federal government is protected from any future claim by the grantee, the State, or any other party for any of the costs of construction associated with the additional capacity.

(6) Industrial Cost Recovery shall be based upon the portion of the Federal grant allocable to the treatment of industrial wastes.

(7) The grantee must implement a user charge system which is applicable to the entire service area of the grantee including the additional capacity of the proposed project.

APPLICATION

Section g. and h. of these guidelines, with the exception of Section g(1), shall be effective and apply to all facility plans prepared under Step 1 where the grant is awarded 30 days or more after publication of these guidelines in final form. Section g(1) shall be effective and apply to all facility plans prepared under Step 1 where the grant is awarded after March 31, 1978.

[FR Doc.77-3440 Filed 2-3-77;8:45 am]

[40 CFR Part 52]

[FRL 681-1]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Oregon Plan

• The purpose of this notice is to invite public comment on a proposed revision to the State of Oregon Clean Air Act Implementation Plan. The revision is Oregon's Rule for Open Burning (Oregon Administrative Rules (OAR) 340-23-025 through 23-050). •

The revised regulation was submitted for the Environmental Protection Agency's (EPA) approval on October 29, 1976 by the State of Oregon Department of Environmental Quality. It was adopted on October 15, 1976 by the Oregon Environmental Quality Commission after testimony was received at five public hearings held in various locations in the State.

The proposed revision replaces the original open burning regulation (OAR 340-23-005 through 23-020) approved by EPA in May 1972 (37 FR 10888) and special regulations that were adopted by the State upon the dissolution of two local air pollution control agencies (OAR 340-28-005 (1), (4), (5), and (6), OAR 340-28-010 through 28-020 and OAR 340-29-055).

The major change to the open burning regulation is the newly added provision for the issuance of special letter permits to allow burning of commercial, industrial and construction and demolition waste when no practicable alternative method of disposal is available. The permits are limited to singly or infrequently occurring instances and are limited in duration according to specific needs.

Within the boundaries of Clackamas, Columbia, Multnomah and Washington Counties, the permits may be issued only for the purpose of disposal of waste resulting from emergency occurrences including but not limited to floods, windstorms, or oil spills, provided the waste cannot be disposed of by any other means.

The Coos Bay Open Burning Control area is now also subject to the regulation.

A further change allows the open burning of domestic waste in certain areas within the Williamette Valley Open Burning Control Area until July 1, 1979 rather than July 1, 1977.

Under section 110(a) of the Clean Air Act, the Administrator of EPA is required to approve or disapprove all revisions to an implementation plan submitted by a State. Public comment is invited as to whether the revised Oregon Open Burning Rules should be approved or disapproved. The rules are available for public inspection at the following addresses:

State of Oregon, Department of Environmental Quality, 1234 SW Morrison Street, Portland, Oregon 97205.

Environmental Protection Agency, Region X, 1200 Sixth Avenue, Seattle, Washington 98101.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, D.C. 20460.

Relevant comments received by March 7, 1977 will be considered in the Administrator's final decision. Comments should be addressed to the Regional Administrator, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

(Sec. 110(a), Clean Air Act, (42 U.S.C. 1857c-5(a)).)

Dated: January 20, 1977.

DONALD P. DUBOIS,
Regional Administrator.

[FR Doc.77-3443 Filed 2-3-77;8:45 am]

[40 CFR Part 52]

[FRL 681-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Nebraska: Approval of Compliance Schedules

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of state plans for implementation of the national ambient air quality standards.

Revisions to the State Implementation Plan submitted by the State of Nebraska after adoption on February 22, 1974, were approved by the Environmental Protection Agency on September 9, 1975 (40 FR 41778). These revisions included the establishment of a July 31, 1976, date for the attainment of National Ambient Air Quality Standards (NAAQS).

After submittal of the emission limitations having state wide applicability, but prior to their September 9, 1975, approval, the State of Nebraska revised the numbering sequence of the emission limitations effective June 17, 1975. The emission limitations themselves were not changed.

In this proposal, the numbering sequence which became effective June 17, 1975, is used. Pertinent Rule Numbers and descriptive titles are listed below:

Rule No.:	*Rule title*
5	Process Operations; Particulate Emission Limitations for Existing Sources.
6	Fuel Burning Equipment; Particulate Emission Limitations for Existing Sources.
7	Incinerators; Emission Standards.
10	Nitrogen Oxides; (Calculated as Nitrogen Dioxide) Emission Standards for Existing Stationary Sources.
13	Visible Emissions; Prohibited (Exceptions: See Rule 18).
14	Dust; Duty to Prevent Escape of.

The State of Nebraska submitted to the Environmental Protection Agency compliance schedules to be considered as proposed revisions to the approved plans pursuant to 40 CFR 51.6. 40 CFR 51.8 requires the Administrator to approve or disapprove compliance schedules submitted by the states. Therefore, the Administrator proposes the approval of the compliance schedules listed below.

The approvable schedules were adopted by the State and submitted to the Environmental Protection Agency after notice and public hearings in accordance with the procedural requirements of 40 CFR 51.4 and 51.6, and the substantive requirements of 40 CFR 51.15 pertaining to compliance schedules. The compliance schedules have been reviewed and determined to be consistent with the approved control strategies of Nebraska. This determination is based on a finding that the compliance schedules will not interfere with attainment and maintenance of NAAQS.

Each approved revision establishes a new date by which the individual source must comply with the applicable emission limitation in the federally approved State Implementation Plan. This date is indicated in the table below, under the heading "Final Compliance Date."

In the indication of proposed approval of individual compliance schedules, the individual schedules are included by reference only. In addition, since the large number of compliance schedules preclude setting forth detailed reasons for approval of individual schedules in the FEDERAL REGISTER, an evaluation report has been prepared for each individual compliance schedule. Copies of these evaluation reports are available for public inspection at the Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, Missouri. The compliance schedules proposed to be approved and the State Implementation Plans are available for public inspection at the Environmental Protection Agency Regional Office; the Environmental Protection Agency, Division of Stationary Source Enforcement, 401 M Street SW., Washington, D.C.; and the Nebraska Department of Environmental Control, 1424 P Street, Lincoln, Nebraska.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the Region VII Office at the above address. All comments submitted on or before March 7, 1977, will be considered. All comments received, as well as copies of the applicable implementation plans, will be available for inspection during normal business hours at the Regional Office.

This proposed rulemaking is issued under the authority of section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 1857c-5.

Dated: January 25, 1977.

DONALD A. TOWNLEY,
Acting Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart CC—Nebraska

1. In § 52.1425, the table in paragraph (a) is amended by adding the following:

§ 52.1425 **Compliance schedules.**

* * * * *

(a) * * *

Nebraska—Compliance schedules

Source	Location	Regulation involved	Date adopted	Variance expiration date	Final compliance date
* * *	*	*	*	*	*
Endicott Clay Products Co. Tunnel kiln	Fairbury	Rule 13	Sept. 10, 1976	July 1, 1977	July 1, 1977
Con Agra, Inc. Cyclone on head house and cyclone-venting leg No. 2, west end of elevator.	Fremont	Rule 13	Sept. 10, 1976	May 21, 1977	May 21, 1977

[FR Doc.77-3705 Filed 2-3-77;8:45 am]

[40 CFR Part 125]

[FRL 680-7]

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Extension of Comment Period

This notice extends the period for comments to the notice, published November 29, 1976 (41 FR 52308), proposing certain amendments to the notice requirements and hearing procedures for the issuance of National Pollutant Discharge Elimination System (NPDES) permits under section 402 of the Federal Water Pollution Control Amendments of 1972. (86 Stat. 816 et seq., 33 U.S.C. 1251 et seq.)

Requests for an extension of time were submitted by several interested persons and groups, including the National Association of Electric Companies, the Natural Resource Defense Council and the American Bar Association, Section of Administrative Law, Environmental Quality Control Committee. Most of the commenters requested that the period be extended at least 30 days, although Natural Resource Defense Council requested only a 14-day extension. The requests generally argued that additional comment time is necessary to review and consider the nature and implications of several significant proposed changes.

The Environmental Protection Agency has decided that extending the comment period would encourage careful consideration of the proposed regulations, resulting in comments more useful to the Agency in its evaluation thereof, and that a reasonable extension of the comment closing date is five weeks from the existing (January 23, 1977) date. The comment period is hereby extended, and all comments received on or before March 1, 1977, will be considered.

Dated: January 28, 1977.

STANLEY W. LEGRO,
Assistant Administrator for Enforcement.

[FR Doc.77-3444 Filed 2-3-77;8:45 am]

[40 CFR Parts 124 and 125]

[FR 672-4]

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

General Permit Program

On July 5, 1973, the Environmental Protection Agency (EPA) published amendments to 40 CFR Part 125, the regulations establishing policies and procedures for the issuance of National Pollutant Discharge Elimination System (NPDES) permits by the Federal government (38 FR 18000). These amendments excluded discharges from small concentrated animal feeding operations, separate storm sewers, and certain agricultural and silvicultural activities from the requirement of applying for and obtaining a permit. On that date EPA also amended 40 CFR Part 124, Guidelines for State Program Elements Necessary for Participation in the NPDES, by adding a new § 124.11. This section authorized States participating in the NPDES to make the same exclusions from the permit requirement as provided for in the amended Part 125 regulations. However, the EPA Regional Administrator or the Director of a State water pollution control agency could override these exclusions by identifying individual sources as significant contributors of pollution and requiring such sources to apply for and comply with NPDES permits. (See 40 CFR 124.11 and 125.4.)

The Natural Resources Defense Council (NRDC) challenged this exercise of the Administrator's discretion to exclude certain point sources from the NPDES permit program in a lawsuit filed in the Federal District Court for the District of Columbia. The District Court ruled in favor of NRDC ["NRDC v. Train", 396 F. Supp. 1393, 7 ERC 1881, (D.D.C. 1975)] and on June 10, 1975, issued a final order requiring EPA to propose and promulgate regulations "extending the NPDES permit system to include all point sources" in the concentrated animal feeding operation, separate storm sewer, agriculture and silviculture categories. EPA is appealing this decision.

However, in compliance with the court order, EPA has promulgated final regulations for concentrated animal feeding operations and separate storm sewers on March 18, 1976; for silvicultural activities on June 18, 1976; and for agricultural activities on July 12, 1976. These promulgations eliminated the previous exclusions of certain categories of point sources from the NPDES permit program as administered by EPA and the States. In the regulations for concentrated animal feeding operations and silvicultural activities, the conventional NPDES permit program was applied to a limited number of identified point sources in those two categories. States administering the NPDES program must also apply the conventional permit program to these two categories. In the regulations for separate storm sewers and agricultural activities, however, EPA indicated that the NPDES permit program as currently administered was not appropriate to deal with the vast numbers of point sources in those categories. Instead, EPA today proposes a new program of general permits to cover point sources in the separate storm sewer and agricultural activities categories. In the separate storm sewer category, these point sources have been defined as conveyances or systems of conveyances located in an urbanized area and primarily operated for the purpose of collecting and conveying storm water runoff. In the agricultural activities category, these point sources have been defined as conveyances carrying surface irrigation return flow as a result of the controlled application of water by any person to land used primarily for crops. (40 CFR 125.52(a)(1); 41 FR 28493, July 12, 1976.) NPDES States may choose to administer a similar general permit program for the point sources in these two categories, or may apply the conventional individual permit program to separate storm sewers and agricultural point sources.

This general permit program is intended to provide maximum flexibility to EPA and the States in administering an appropriate permit program for these categoires. This program specifically recognizes that pollution reduction from sources in these categories is often more effectively achieved by using best management practices (BMPs) than by applying end-of-pipe pollution control technology. BMPs are management techniques that reduce the amount of pollutants at their source rather than remove them from their point of discharge into navigable waters. The Federal Water Pollution Control Act (FWPCA), however, contemplated that NPDES permits would generally regulate pollution from point sources by imposing effluent limitations achieved by end-of-pipe pollution control technology. It appears that under the FWPCA, BMPs to achieve pollution reduction and water quality standards can be imposed as requirements in NPDES permits only in limited, specified circumstances. Clearly, however, BMP requirements may be imposed in permits so as not to conflict with provisions of an areawide waste management plan approved pursuant to section 208. Moreover, BMPs may be imposed by requirements of State certification of an EPA-issued permit under section 401. Despite the flexibility offered by sections 208 and 401, however, BMPs are generally not available as control mechanisms in NPDES permits at this time, although they are often the most effective means of achieving pollution control for discharges from separate storm sewers and agricultural point sources.

Even if BMPs were more available as control mechanisms in NPDES permits, much research is yet to be completed to develop and demonstrate the effectiveness of alternative management practices in all locations. For example, although more than $5.2 million has been expended for current research projects to control irrigation return flow aspects of agricultural pollution, it is apparent that there are no BMPs which are universally applicable. Also, although more than $350 thousand per year has recently been spent for stormwater problem definition and research and development, EPA is not prepared to impose uniformly applicable BMP requirements on all communities with stormwater pollution problems. Instead, BMPs must be tailored to the specific area which they serve, taking into consideration local variations in geography, geology, meteorology, rainfall, topography and crop production. Thus, the selection and implementation of BMPs are best achieved locally, in coördination with 208 and other planning and field agencies.

These 208 plans, mandated by section 208 of the FWPCA, provide for local participation in the development and implementation of continuing areawide waste treatment management plans to deal effectively, in an integrated manner, with both point and nonpoint sources of pollu-

tion. It appears, therefore, that the most effective mechanism for controlling pollutant discharges from point sources in the separate storm sewer and agricultural activities categories will be a combination of the general permits and the 208 plans and the regulatory programs designed to implement them. Thus in these regulations a program is proposed which utilizes to the fullest extent the local expertise and public participation provisions of the 208 planning process.

Given the variable nature of pollutant discharges from separate storm sewers and agricultural point sources, and the inability to impose nationally applicable substantive requirements at this time, most first generation general permits will authorize current discharges. However, a failure to develop and implement adequate 208 plans may compel more substantive restrictions in second generation general permits or in individual permits, which could include conventional effluent limitations, management practices, or other appropriate requirements.

Because of the interrelationship between this general permit program and the 208 planning program, the importance of comprehensive, sound and effective 208 plans cannot be overemphasized. Each planning agency should recognize its duty to inform and involve affected citizens of the far-reaching consequences of the 208 plans so that communities can work together to formulate and implement effective plans to solve water quality problems. Without local cooperation and coordination in every step of the areawide planning process, communities could lose their local mandate to the more remote regulatory agencies at the State and Federal level. While it is express policy of EPA to regard planning and problem-solving under section 208 as a local government function, if it appears that this function is not being carried out, EPA must initiate action to meet the goals of the FWPCA. An alternative to this general permit program, with its reliance on planning agencies' BMP recommendations, could be the issuance of individual NPDES permits imposing effluent limitations on the point sources identified in the agricultural activities and separate storm sewer categories. This alternative, as it has often been expressed, is not as environmentally or administratively sound as the general permit concept incorporating BMPs. Thus, planning agencies and their affected constituency are strongly encouraged to work together to develop feasible, workable, environmentally beneficial plans to integrate this general permit program into the local decision-making process.

Summary of Proposed Program

It is proposed that the general permit program will be implemented in two phases according to the following schedule:

(1) Proposed rules for the general permit program are published today.

(2) *Phase I*—These regulations propose to require permit-issuing agencies to designate general permit program areas (GPPAs).

(a) Criteria upon which to base these GPPAs are listed in this proposed regulation. It is anticipated and strongly recommended that GPPAs be designated according to existing political, institutional and geographical boundaries, particularly section 208 planning areas.

(b) These GPPAs must be designated within six months of the promulgation of the final regulations for general permits.

(3) *Phase II*—Within one year after the GPPAs are designated, it is proposed that general permits will be issued in each GPPA to cover owners and operators of point sources identified pursuant to the March 18, 1976, regulations for separate storm sewers and the July 12, 1976, regulations for agricultural activities.

(a) These general permits will be issued to cover all owners and operators not otherwise receiving individual NPDES permits in the separate storm sewer and agricultural activities categories.

(b) The general permits will be issued following notice and opportunity for hearing.

(c) Procedures will also include opportunity for any owner or operator to exclude himself from the general permit process. Any such excluded owners or operators would then be subject to the conventional NPDES permit program.

(d) General permits will not require applications from individual owners or operators.

(e) General permits will include reasonable conditions determined necessary by the Regional Adminministrator or Director of a State water pollution control agency to obtain progress in reducing pollution and to meet the goals of the FWPCA.

(4) General permits may be issued for a term of not more than five years, and may be modified, suspended or terminated by the permit-issuing agency under certain conditions. Termination may apply to individual owners or operators, to several owners or operators, or to an entire GPPA. In cases where the termination does not affect all owners and operators, the general permit shall remain in effect with respect to those unaffected owners and operators. The two main conditions for termination are as follows:

(a) First, where requirements of an approved, applicable 208 plan are not being met, individual permits may be issued to those owners and operators subject to the plan incorporating the conditions of the plan.

(b) Second, where, even prior to the development of an approved, applicable 208 plan, the EPA Regional Administrator or the Director of a State water pollution control agency finds that a point source in the separate storm sewer or agricultural activities categories is a significant source of pollution, he may require the owner or operator of that point source to apply for and obtain an individual NPDES permit.

It is possible that general permits may be reissued for additional five-year terms where individual permits are infeasible, inappropriate or unnecessary.

(5) Following a comment period and consideration of the comments received on this proposed program, final regulations will be promulgated.

It should be noted that the designation of GPPAs for separate storm sewers does not automatically signify designation of such separate storm sewers as significant contributors of pollution pursuant to 40 CFR §§ 124.83(a)(1) or 125.52 (a)(1). Designation of separate storm sewers as significant contributors of pollution under §§ 124.83(a)(1) and 125.52 (a)(1) is an entirely separate process from the designation of GPPAs.

The following charts indicate the proposed timetables for the issuance of general permits and the relationship of this general permit program to the 208 planning process.

CHART A

PROPOSED PERMIT ISSUANCE TIMETABLE

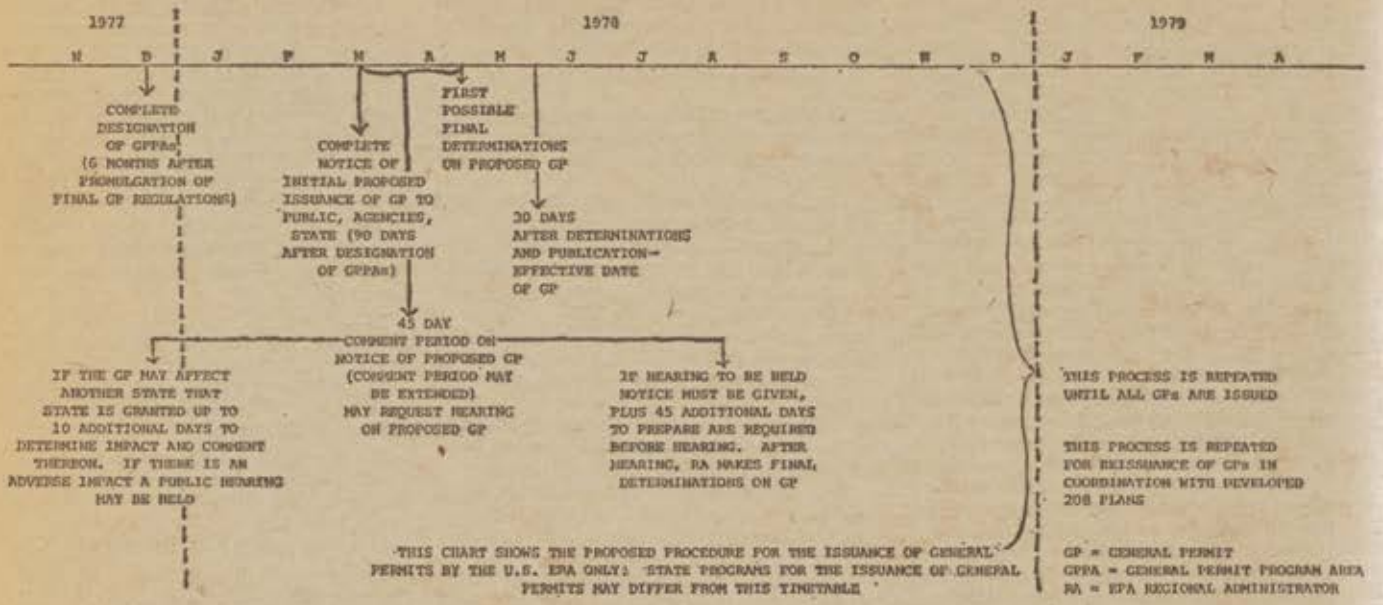
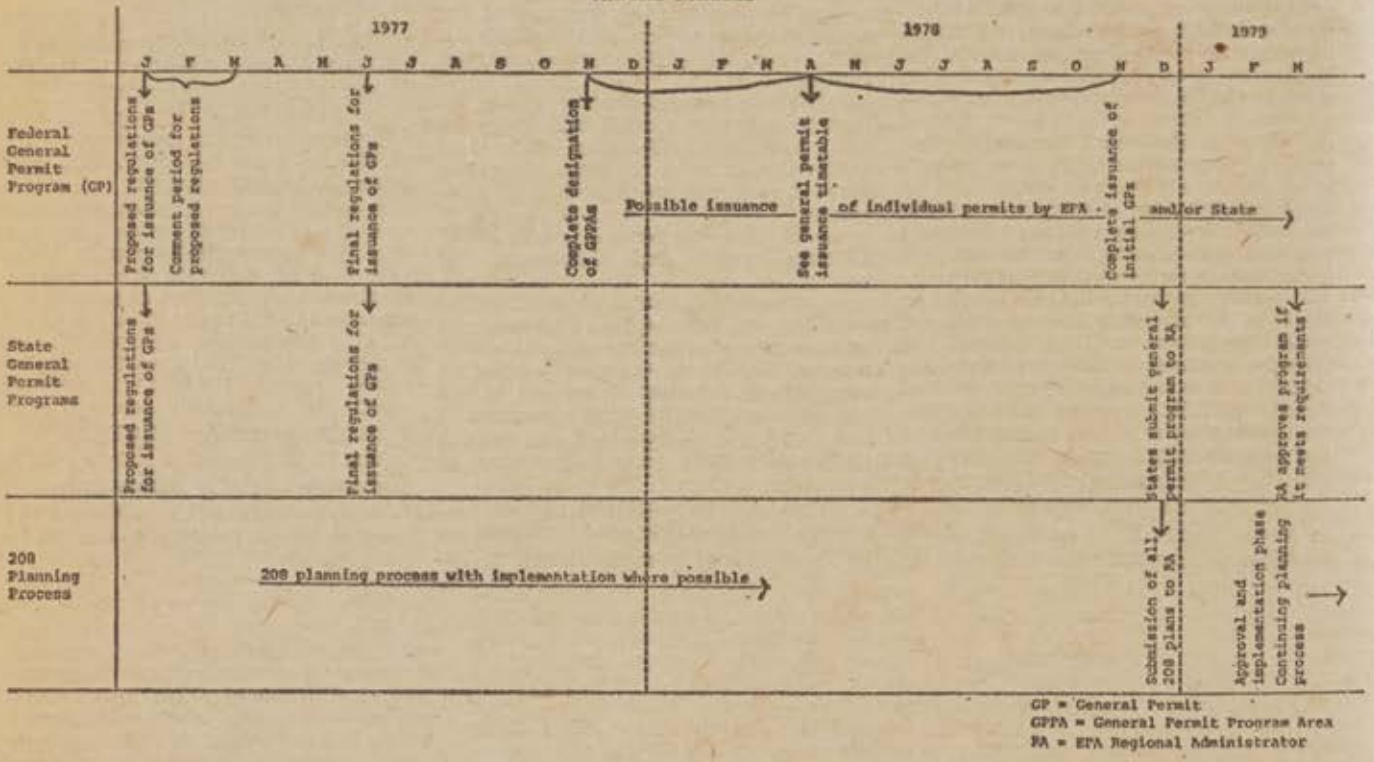


CHART B

PROPOSED TIMETABLE



It is necessary to distinguish this program for general permits from that developed by the U.S. Army Corps of Engineers (Corps) to administer a portion of the section 404 permit program for the discharge of dredged or fill material into navigable waters. The Corps' program is limited to "those activities that are substantially similar in nature, that cause only minimal adverse environmental impact when performed separately, and that will have only a minimal adverse cumulative effect on the environment as categories." EPA, however, recognizes that its general permit program will cover numerous, diverse sources of pollution: Public and privately owned storm sewer drains, pipes and outlets discharge sand, gravel, leaves, organic matter, litter, automobile wastes, oil and grease; irrigation return flow ditches, channels and culverts discharge suspended sediments, animal and other organic wastes, pesticides, fertilizer, nutrients, dissolved salts and other dissolved materials.

EPA's program is designed to be local or regional in application in order to address differences in the categories of point sources covered. EPA's program does not impose national numerical limitations on the discharges from separate storm sewers or agricultural point sources. Instead, as much as possible, EPA's program is to be administered at the local level, in coordination with the State and community planning agencies, taking into consideration local variations in climate, topography, rainfall, industrial development, pollutant loads and water uses.

It is believed that EPA's program satisfies the decision in the case of "NRDC v. Train" by issuing permits for all point sources in the designated GPPAs. The general permits issued pursuant to this program will prescribe general conditions to be followed by all persons who own or operate point sources in the separate storm sewer and agricultural activities categories. These general permits also preclude the need for further permitting requirements with respect to individual applications for NPDES permits until such time as 208 plans are implemented or the owner or operator of a point source discharging pollutants is notified that such individual application is required.

Some States administering the NPDES permit program already have workable, effective individual or general permit programs applicable to agricultural point sources. It is not the intent of these regulations to replace or supplant such programs. However, to insure a degree of uniformity of approach, all State programs must conform to basic procedural requirements. The Regional Administrator will review these requirements in State programs upon their submission to him. If the Regional Administrator finds that the State program conforms to the procedural framework and is adequate to progress toward water quality goals he shall approve the program. NPDES States without either an adequate program or any program at all must develop a permit program covering agricultural point sources and separate storm sewers. Within the procedural requirements, each NPDES State is encouraged to develop its own program tailored to the different needs and water quality goals of its area. Where practical, interstate agreements could be arranged for regional areas where there are common water quality problems. Where there are interstate disagreements about water quality goals, the Regional Administrator will aid in developing a program to resolve differences in such goals. Any such resolution may require phased programs, compliance schedules, and close coordination with 208 and other local plans. Each State program, regardless of interstate agreements, must be submitted to the Regional Administrator for review and approval where appropriate. Any NPDES-approved State may develop a general permit program similar to the Federal program. States developing permit programs parallel to that of EPA may enter into agreements with EPA to hold joint public meetings and to issue joint general permits, particularly in areas where similar water problems exist and State and Federal authority overlap. Any State unable to develop a general permit program within the time limits imposed by these regulations should inform EPA of the difficulty.

It should be noted that the evidentiary hearings provided for in these regulations are the same as the adjudicatory hearings referred to in the NPDES regulations. However, the NPDES regulations are currently being revised with respect to the provisions for adjudicatory hearings. This revision includes changing the name for adjudicatory hearings to evidentiary hearings. Evidentiary hearings held under these general permit regulations may only address factual issues relevant to the conditions of the contested general permit(s). All evidentiary hearings held under these general permit regulations shall be conducted in conformance with the revised hearing regulations.

Request for Comments

Interested persons may participate in this rulemaking by submitting written comments to the Legal Branch, Water Enforcement Division (EN-338), Office of Water Enforcement, Environmental Protection Agency, Washington, D.C. 20460. Comments upon all aspects of the proposed regulations are solicited. In particular, comments are desired concerning the definitions in the regulations, the scope of the regulations, the procedural and substantive provisions of the regulations, the administration and function of State programs within the regulations, and the impact and effectiveness of the regulations, including the water quality benefits to be gained as contrasted with the costs to the affected owners and operators. In the event comments object to the approach taken by the Agency in establishing this regulation, EPA solicits suggestions as to what alternative approach should be taken and why and how much such alternative better satisfies the requirements of the court order.

A copy of all public comments will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2922, Rear Library-Mall, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. The EPA Public Information regulations, 40 CFR Part 2, provide that a reasonable fee may be charged for copying. All comments received on or before April 1, 1977, will be considered.

NOTE.—No inflationary Impact Statement is required by Executive Order 11821 for these proposed regulations since the economic effects will not exceed the criteria established by EPA and approved by the Office of Management and Budget for the preparation of such statements.

(Secs. 304, 402, 501, of the Federal Water Pollution Control Act Amendments of 1972 (87 Stat. 816 et seq., Pub. L. 92-500, 33 U.S.C 1251 et seq.).)

Dated: January 27, 1977.

JOHN QUARLES,
Acting Administrator.

Part 124 of Title 40 of the Code of Federal Regulations, setting forth State program elements necessary for participation in the National Pollutant Discharge Elimination System, is proposed to be amended as follows:

PART 124—STATE PROGRAM ELEMENTS NECESSARY FOR PARTICIPATION IN THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Subpart I—Special Programs

Subpart I of Part 124 is amended by adding a new § 124.86, "General Permit Program" as follows:

§ 124.86 General permit program.

(a) *Definitions.* For the purpose of this section:

(1) The term "separate storm sewer" is defined in § 124.83.

(2) The term "agricultural point source" is defined in § 124.84.

(3) The term "general permit program area" [hereinafter referred to as GPPT] means any area designated by the Director in which all owners or operators of separate storm sewers or agricultural point sources, or both, are subject to the same general permit, other than owners and operators to whom individual NPDES permits have been or will be issued.

(4) The term "general permit" means an authorization to discharge published according to official State procedures and applicable to all owners and operators of separate storm sewers or agricultural point sources, or both in a designated GPPA, other than owners and operators to whom individual NPDES permits have been or will be issued.

(5) The term "owner or operator" means any person who owns or operates any separate storm sewer or any agricultural point source.

(b) *Purpose.* This section describes the methods whereby States with approved NPDES permit programs shall develop and administer individual or general permit programs authorizing discharges from point sources in the separate storm sewer and agricultural activities categories. Each State with NPDES permit program authority shall develop and administer a permit program to cover all separate storm sewers and agricultural point sources within its jurisdiction. Any such State shall administer a permit program under one of the three following options:

(1) The State shall issue individual NPDES permits to all owners and operators of separate storm sewers or agricultural point sources, or both, pursuant to the State program developed and approved in accordance with Part 124;

(2) The State shall issue permits applicable to all owners and operators of separate storm sewers or agricultural point sources, or both, in accordance with a State program for such sources currently in effect, so long as such State program is consistent with the procedural requirements of § 125.55 of this title; or

(3) The State shall issue general permits applicable to all owners and operators of separate storm sewers or agricultural point sources, or both, other than owners and operators to whom individual NPDES permits have been or will be issued, in accordance with a State program proposed to be developed consistent with EPA's program for such sources pursuant to § 125.55 of this title.

Any State intending to administer a program under paragraph (b) (2) or (3) of this section shall submit such program to the Regional Administrator for approval.

(c) *Approval of State Programs.* (1) Any State intending to issue permits applicable to all owners and operators of separate storm sewers or agricultural point sources, or both, under programs authorized by paragraphs (b) (2) or (b) (3) of this section shall notify the Regional Administrator within forty-five days of the promulgation of these regulations which type of program the State shall administer.

(2) Any State intending to issue permits applicable to all owners and operators of separate storm sewers or agricultural point sources, or both, under programs authorized by paragraphs (b) (2) or (b) (3) of this section shall submit the State program to the Regional Administrator within eighteen months of the promulgation of these regulations. Within ninety days of its submission to him, the Regional Administrator shall approve any such State permit program for point sources in either the separate storm sewer category or the agricultural activities category, or both, if the program meets the following requirements:

(i) The program provides for the issuance of individual or general permits, or any combination thereof, to all owners and operators of separate storm sewers or agricultural point sources, or both, after notice and opportunity for hearing.

(ii) The program provides for review of the proposed permits by the Regional Administrator; the U.S. Army Corps of Engineers; other affected States; appropriate 208 planning agencies; and other appropriate Federal, State and local agencies, including the U.S. Departments of Agriculture and Interior, the State health; fish, shellfish, and wildlife resources agencies, and affected sewer districts.

(iii) The permits issued under the program are issued consistent with the requirements of § 125.55(j) of this title.

(iv) The program provides for authority to issue individual NPDES permits under circumstances similar to those set forth in § 125.55(1) of this title.

(v) The program provides for reissuance, modification, suspension and revocation of individual or general permits.

(3) Within 180 days after the Regional Administrator approves any such State permit program for point sources in either the separate storm sewer category or the agricultural activities category, or both, the State shall proceed to adopt regulations to implement such permit program.

(d) *Authority for State Programs.* All procedures which the State proposes to establish and administer to conform to the requirements of this subsection shall be consistent with State statutes or State regulations. Authority for the State program shall be proposed or in full force and effect at the time the Governor submits such program to the Regional Administrator.

(e) *Actions with Regard to Previously Issued NPDES Permits for Point Sources in the Separate Storm Sewer and Agricultural Activities Categories.* With regard to NPDES permits previously issued for discharges from separate storm sewers or agricultural point sources in reliance on prior regulations for such discharges the Director shall:

(1) Initiate procedures as set forth in the State NPDES program for the revocation of any such NPDES permit; or

(2) Consider any such NPDES permit as continuing in full force and effect.

(f) *Agreements with the Environmental Protection Agency.* Any State or interstate agency participating in the NPDES with regard to general permits for separate storm sewers and agricultural point sources may enter into agreements with the appropriate Regional Administrator to provide for:

(1) The transmission of any relevant information regarding separate storm sewers and agricultural point sources between the Regional Office and the State or interstate agency; and

(2) Procedures for joint action between the Regional Office and the State or interstate agency regarding the process of issuing general permits applicable to owners and operators of separate storm sewers and agricultural point sources. Any procedures set forth in § 125.55 paragraph (c) through (m) of this title may be undertaken as a joint action between the Regional Office and the State or interstate agency pursuant to an agreement drafted under this subsection.

Part 125 of Title 40 of the Code of Federal Regulations, setting forth policies and procedures for the Environmental Protection Agency's administration of its role in the National Pollutant Discharge Elimination System, is proposed to be amended as follows:

Subpart F—Special Programs

2. Subpart F of Part 125 is amended by adding a new § 125.55, "General Permit Program" as follows:

§ 125.55 General permit program.

(a) *Definitions.* For the purpose of this section:

(1) The term "separate storm sewer" is defined in § 125.52.

(2) The term "agricultural point source" is defined in § 125.53.

(3) The term "general permit program area" [hereinafter referred to as GPPA] means any area designated by the Regional Administrator in which all owners or operators of separate storm sewers or agricultural point sources, or both, are subject to the same general permit, other than owners and operators to whom individual NPDES permits have been or will be issued.

(4) The term "general permit" means an authorization to discharge published in the FEDERAL REGISTER and applicable to all owners and operators of separate storm sewers or agricultural point sources, or both, in a designated GPPA, other than owners and operators to whom individual NPDES permits have been or will be issued.

(5) The term "owner or operator" means any person who owns or operates any separate storm sewer or any agricultural point source.

(b) *Purpose.* This section describes the policies and procedures to be followed by the Environmental Protection Agency in connection with the processing of general permits authorizing discharges from point sources in the separate storm sewer and agricultural activities categories.

(c) *Procedures for designation of GPPA's.* (1) Within six months of the promulgation of these regulations the Regional Administrator shall designate, in those States without authority to administer the NPDES permit program, one or more GPPA's in which it is appropriate for all owners and operators of separate storm sewers or agricultural point sources, or both, to be subject to the same general permit conditions. GPPAs for separate storm sewers may be different from GPPAs for agricultural point sources. All separate storm sewers and agricultural point sources not otherwise subject to individual NPDES permits shall be covered by one or more GPPAs.

(2) The Regional Administrator should designate GPPAs for separate storm sewers to correspond, whenever possible, with existing political or geographical boundaries such as:

(i) Designated planning areas, under section 208 of the Act;

(ii) Sewer districts or sewer authorities; or

(iii) City, county, or State political boundaries.

Where existing political or geographical boundaries are not appropriate, the Regional Administrator may designate GPPAs for separate storm sewers to correspond with:

(A) Standard metropolitan statistical areas (SMSAs—as defined by the Office of Management and Budget);

(B) Urbanized areas [as defined by the Bureau of Census; see § 125.52(a)(4)]; or

(C) Any other appropriate divisions which will encompass in one or more areas all separate storm sewers subject to the same general permit conditions.

Any GPPA for separate storm sewers may be a combination of the entities listed above.

(3) The Regional Administrator should designate GPPAs for agricultural point sources to correspond, whenever possible, with existing political or geographical boundaries such as:

(i) Conservation districts;

(ii) Designated planning areas, under section 208 of the Act;

(iii) Integrated reclamation, water use or water resources districts, projects, organizations or associations; or

(iv) City, county, or State political boundaries.

Where existing political or geographical boundaries are not appropriate, the Regional Administrator may designate GPPAs for agricultural point sources to correspond with:

(A) River basins; or

(B) Any other appropriate divisions which will encompass in one or more areas all agricultural point sources subject to the same general permit conditions.

Any GPPA for agricultural point sources may be a combination of the entities listed above.

(4) In designating GPPAs the Regional Administrator may consult with the United States Department of Agriculture; the appropriate State water pollution control authorities and 208 planning agencies; the United States Department of the Interior; and other interested persons, associations, and organizations such as officials of sewer districts and sewer authorities; water resources projects; and agricultural, environmental, educational and governmental groups.

(5) Any designation of any GPPA is subject to review by the Regional Administrator at the expiration of the term of the general permit for such GPPA, or at such time that individual permits are issued to all owners and operators of separate storm sewers and agricultural point sources in such GPPA, or as necessary to address effectively water quality problems.

(6) Within ninety days after the designation of the GPPAs the Regional Administrator shall give public notice in accordance with paragraph (d) of this section that the GPPAs have been designated and that general permits are proposed to be issued.

(7) After designation of GPPAs the Regional Administrator shall make available to any person upon request, information concerning the GPPAs, including:

(i) The location and boundaries of any GPPA;

(ii) A map of any GPPA;

(iii) The type of point sources to be covered by such GPPA; and

(iv) The reasons for choosing such GPPA.

(d) *Procedures for issuance of general permits—public notice.* (1) Public notice of the proposed issuance, denial or modification of a general permit shall be given by the Regional Administrator, in a manner designed to inform interested and potentially interested persons, not less than forty-five days before the date of the proposed issuance, denial or modification of the permit.

(2) Such public notice shall be given by the Regional Administrator:

(i) By publishing a copy of the notice in the local newspapers and appropriate periodicals;

(ii) By publishing a copy of the notice in the FEDERAL REGISTER; and

(iii) By mailing a copy of the notice to Federal and State fish, shellfish, wildlife resource, and agricultural agencies, appropriate 208 agencies, other appropriate government agencies, and to any person or group upon request.

Each public notice may be given by the Regional Administrator by posting a copy of the notice in post offices and public places of the GPPA in which the separate storm sewers or agricultural point sources, or both, are located.

(3) Procedures concerning the receipt and consideration of comments by the Regional Administrator are set forth in § 125.32(b)(1), except that the comment period for all general permits shall be forty-five days. (Comment: Reference to "the applicant" in § 125.32(b)(1) is inapposite to these regulations.)

(4) Public notice of the proposed issuance, denial or modification of a general permit shall contain the information set forth in §§ 125.32 (c)(2), (c)(6)(i), (c)(7)) and (c)(10), except that the comment period referred to in § 125.32 (c)(7) shall be forty-five days with regard to any general permit. (Comment: Reference to "application" in § 125.32(c)(6)(i) is inapposite to these regulations.) Public notice shall also contain the following information:

(i) Brief description of the types of activities or operations which result in the discharges to be covered by the general permit, along with a map or description of the GPPA in which the discharges occur;

(ii) Name of major waterways to which discharges are made;

(iii) Brief description of the terms and conditions of the draft general permit;

(iv) Reference to the legal authority under which the general permit is issued;

(v) Address and telephone number of the place where interested persons may obtain further information, request a copy of the draft general permit prepared pursuant to paragraph (k) of this section, and inspect and copy forms, documents and other materials; and

(vi) Such additional information as the Regional Administrator shall deem necessary and proper.

(5) The Regional Administrator, in his discretion, may issue, prior to or as part of any notice of the proposed issuance, denial or modification of a general permit, a notice of public hearing in accordance with paragraph (e) of this section, whether or not any request for such public hearing has been submitted to him.

(6) Public notice issued under this paragraph or under paragraph (e) of this section may describe more than one general permit and more than one GPPA, provided that each permit and each GPPA shall be described separately.

(7) The Regional Administrator may enter into agreements with state or interstate agencies for joint Federal-State or interstate public notices and joint public hearings regarding the issuance, denial or modification of general permits.

(e) *Procedures for issuance of general permits—opportunity for hearing.* (1) Any interested person may request that a hearing be held with regard to any general permit.

(2) Public notice of hearings shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed issuance, denial or modification of a general permit and shall be given by the Regional Administrator in the manner set forth in paragraph (d)(3) of this section.

(3) Public notice of a public hearing shall contain the information set forth in §§ 125.32 (d)(2), (d)(5), (d)(6), (d)(7), (d)(8), and (d)(10) and paragraphs (d)(4)(i), (d)(4)(ii), (d)(4)(v), and (d)(4)(vi) of this section.

(4) Where notice is given of a public hearing, the Regional Administrator shall provide not less than forty-five days following the date of the notice to allow time for interested persons to prepare for the hearing.

(5) A public hearing shall be held if the Regional Administrator:

(i) Finds a significant degree of public interest in a proposed general permit or group of general permits; or

(ii) Determines that useful information and data may be obtained thereby.

(6) Hearings shall be held in accordance with §§ 125.24 (b) and (c). All statements, comments and data presented at the hearing shall be retained by the Regional Administrator and considered in the formulation of his determination.

(7) Except where there is significant public interest, the Regional Administrator may consolidate hearings for two or more general permits proposed to be issued for GPPAs in the same State or Region.

(f) *Procedures for the issuance of general permits—distribution and publication.* (1) In order to assure appropriate review of the proposed general permit,

the Regional Administrator shall forward one copy of the proposed general permit to each of the agencies set forth in paragraph (f)(2) of this section at the same time public notice of such permit is published. Accompanying the proposed general permit will be notice that the Environmental Protection Agency proposes to issue a general permit and that each notified agency has forty-five days to evaluate the impact of the issuance of such general permit. In the absence of an agreement to extend the forty-five day comment period, failure to respond within forty-five days shall be deemed to be a waiver of the right to respond. When an agency responds with suggested conditions and the imposition of such conditions on the proposed general permit is necessary to avoid any significant and adverse environmental impacts, the Regional Administrator shall consider including those specified conditions in such general permit where he has statutory authority to do so. Any agency may waive its right to receive copies of any proposed general permit.

(2) The Regional Administrator shall forward one copy of the proposed general permit to the following agencies:

(i) The Department of the Army, through the District Engineer;

(ii) The U.S. and State Departments of the Interior, of Commerce, and of Agriculture;

(iii) The appropriate 208 planning agency for the area in which the GPPA is located; and

(iv) The State water pollution control agency in the States(s) where the discharges occur or will occur. Within forty-five days the State shall certify the discharge in accordance with the first two sentences of § 125.15(a), or shall:

(A) Conditionally certify the discharge;

(B) Deny such certification; or

(C) Waive such certification.

(Comment: Reference to "the applicant" in § 125.15(a) is inapposite to these regulations.)

(3) When the Regional Administrator determines that a discharge may affect the quality of the waters of any State other than the certifying State, the Regional Administrator shall notify such other State of his determination and shall transmit to such other State a copy of the proposed general permit at the same time public notice of such permit is issued. Within forty-five days from the date notice was received from the Regional Administrator, such other State shall determine whether or not the discharge will violate any water quality requirements in such State. If the water quality requirements will be violated, such other State shall within ten days notify the Regional Administrator in writing of its objection to the issuance of the general permit. Unless the objection can be resolved outside a public hearing, the State shall request a public hearing on the objection. Upon receipt of such request, the Regional Administrator shal hold a hearing in conformity with paragraph (e) of this section. Where conflicts arise among States with different water quality requirements the States shall consult with the Regional Administrator to resolve such conflicts.

(4) Where an interstate agency has authority over waters that may be affected by the issuance of a general permit, it shall be afforded the rights of a State pursuant to paragraph (f)(3) of this section.

(5) If a general permit issues, a copy of such permit shall be transmitted to the State in which the discharges occur. Copies of these permits shall be available for inspection and reproduction by the public in the Regional Office, and shall be sent to any interested person on request.

(6) Each general permit shall be published in the FEDERAL REGISTER and in one or more local newspapers or periodicals in the GPPA for which the permit is issued.

(g) *Procedures for the issuance of general permits—final determination and effective date of general permit.* (1) No less than forty-five days after the date of public notice of the proposed issuance, denial or modification of a general permit required by paragraph (d) of this section, the Regional Administrator shall make final determinations with respect to such permit. Such determinations shall be based on consideration of the facts, the comments received, any data collected at the public hearing, if held, and the requirements and policies expressed in the Act and in these regulations. The determinations shall include a proposed general permit issuance, modification or denial.

(2) Where the determinations of the Regional Administrator pursuant to paragraph (g)(1) of this section with respect to any permit are:

(i) Substantially unchanged from the tentative determinations and draft permit prepared pursuant to paragraph (k) of this section, the Regional Administrator shall forward a copy of the determinations to any person who has submitted written comments regarding the permit, and to any other interested party requesting such determinations.

(ii) Substantially changed from the tentative determinations and draft permit prepared pursuant to paragraph (k) of this section, the Regional Administrator shall give public notice of such determinations in accordance with paragraph (d) of this section.

(3) The proposed permit, modification or denial contained in the determination of the Regional Administrator prepared pursuant to paragraph (g)(2) of this section shall become issued and the final action of the Agency, unless a request for an evidentiary hearing is granted, in which case the final action of the Agency will be made pursuant the procedures for the disposition of evidentiary hearings.

(4) The general permit shall take effect days after the date of the publication unless a later effective date is specified in the publication. Any person may request an evidentiary hearing within thirty days of the publication of the general permit in the FEDERAL REGISTER.

(h) *Scope of general permits.* (1) Except: (i) As provided in paragraph (h)(1) of this section; and

(ii) For owners and operators of separate storm sewers or agricultural point sources already subject to NPDES permits; each general permit shall cover all owners and operators of separate storm sewers or agricultural point sources, or both, in the GPPA in which the general permit is issued. All owners and operators subject to such general permit are permittees; *Provided, however,* That any owner or operator in any GPPA may request that he be excluded from the coverage of the general permit to which he would otherwise be subject. To make such a request, the owner or operator shall submit in writing to the Regional Administrator within ninety days of the publication of the general permit in the FEDERAL REGISTER, a statement of request accompanied by reasons therefor. The Regional Administrator shall grant all such requests if he finds that the reasons cited by the owner or operator are adequate to support the request. Any owner or operator for which such an exclusion is granted must apply for and obtain an individual NPDES permit if such owner or operator discharges pollutants from a separate storm sewer or an agricultural point source into navigable waters.

(2) Unless he makes a request pursuant to paragraph (h)(1) of this section or is otherwise subject to an individual NPDES permit, any owner or operator of a separate storm sewer or agricultural point source in a GPPA who discharges pollutants into navigable waters subsequent to the issuance of a general permit for such GPPA, shall be subject to the conditions of the general permit issued for such GPPA.

(3) The issuance of a general permit does not authorize any infringement of Federal, State, or local laws or regulations; nor does it obviate the necessity of obtaining State or local assent required by law for the discharge authorized.

(j) *Terms and conditions of general permits.* (1) All general permits shall be issued for fixed terms not to exceed five years.

(2) No general permit shall be issued:

(i) In cases where pursuant to section 401 of the Act, State certification that the discharge will comply with the applicable provisions of sections 301, 302, 306, and 307 is required and such certification was unconditionally denied.

(ii) For the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into the navigable waters.

(iii) For any discharge from a point source in conflict with a plan, or an amendment thereto, approved pursuant to section 208(b) of the Act.

(iv) That does not conform to any effluent limitation or prohibition established under section 307(a) of the Act.

(3) Each general permit shall contain the following conditions:

(i) Each owner and operator of separate storm sewers or agricultural point sources in each GPPA shall conduct their

activities and operations with respect to such separate storm sewers or agricultural point sources in compliance with the terms and conditions of the general permit issued for such GPPA.

(ii) Each owner or operator subject to the general permit shall permit the representative upon the presentation of Regional Administrator or his authorized his credentials:

(A) To enter upon the owner or operator's premises from which there may be any discharges of pollutants into navigable waters;

(B) To have access to and copy any records required to be kept under the terms and conditions of the permit;

(C) To inspect any monitoring equipment or method required in the permit; or

(D) To sample any discharge.

(4) Any general permit may contain such additional conditions as the Regional Administrator may reasonably determine necessary to progress in reducing pollution and meet the goals of the Act.

(k) *Formulation of tentative determinations and draft permits.* (1) The Regional staff shall formulate and prepare tentative determinations with respect to any general permit in advance of public notice of the proposed issuance, denial or modification of the general permit. Such tentative determinations shall include:

(i) A proposed determination to issue, deny or modify the general permit for the discharges in the GPPA; and

(ii) If the determination proposed in paragraph (k)(1)(i) of this section is to issue the general permit:

(A) Determinations shall be made to propose any conditions in addition to those in paragraph (j) of this section that will have a significant impact on the discharges in the GPPA; and

(B) A draft general permit shall be prepared.

(l) *Case-by-case designation.* (1) The Regional Administrator may require an owner or operator subject to any general permit to apply for and obtain an individual NPDES permit pursuant to this Part. The Regional Administrator may require individual NPDES permits in cases where:

(i) Discharges from separate storm sewers or agricultural point sources are significant contributors of pollution;

(ii) Effluent guidelines are promulgated for point sources in the separate storm sewer or agricultural activities categories; or

(iii) A 208 plan containing requirements applicable to such point sources is approved.

(2) An individual permit may be required only after:

(i) A determination that the owner or operator required to apply for the permit is responsible for a discharge of pollutants into navigable waters;

(ii) An onsite inspection by a representative of the Regional Administrator has taken place ascertaining the discharge of pollutants into navigable waters; and

(iii) The owner or operator has been notified in writing that such permit application is required. Such notice shall include an application form, a statement that the owner or operator has sixty days from receipt of such notice to file the application, and a statement that the general permit will be revoked with regard to such owner or operator.

(3) Any owner or operator required to apply for an individual NPDES permit is subject to the procedures set forth in Part 125 of this Title.

(4) In any case where an individual NPDES permit is issued to an owner or operator otherwise subject to a general permit, and such permit becomes effective, the Regional Administrator shall initiate action to revoke the applicability of the general permit to such owner or operator. Each such revocation shall follow the procedures set forth in paragraph (m) of this section.

(m) *Modification, suspension and revocation of general permits.* (1) The Regional Administrator may modify, suspend or revoke any general permit as to an entire GPPA, any portion of a GPPA, or any point source in a GPPA, for cause as set forth in paragraph (m)(3) of this section.

(2) Each modification, suspension or revocation must be preceded by notice to individual owners and operators and opportunity for hearing, the procedures for which are set forth in paragraphs (d) and (e) of this section. Where modification or revocation of a general permit is concurrent with the issuance of an individual permit, notice for such modification, revocation and issuance should be published together.

(3) Modification, suspension or revocation for cause includes:

(i) Noncompliance by any owner or operator subject to the general permit with the terms and conditions of such permit;

(ii) A finding that circumstances have changed with respect to:

(A) The availability of demonstrated technology or practices for the control or abatement of pollutants from separate storm sewers or agricultural point sources;

(B) The availability of effluent guidelines for separate storm sewers or agricultural point sources;

(C) The availability of an approved 208 plan; or

(D) The amounts, rates or concentrations of pollutants discharged from point sources covered by the general permit;

(iii) An act of God, flood, drought, materials shortage, or other event over which the owners or operators subject to the general permit have no control;

(iv) Issuance of an individual NPDES permit under paragraph (m)(1) of this subsection;

(v) Issuance of individual NPDES permits for all point sources in a GPPA.

(n) *Evidentiary hearings on general permits.* (1) Public notice of an evidentiary hearing held under subpart D of this Part shall be circulated in a manner designed to inform interested and potentially interested persons of the evidentiary hearing and shall be given by the Regional Administrator in the manner set forth in paragraph (d)(2) of this section.

(2) Public notice of an evidentiary hearing shall contain the information set forth in §§ 125.32 (e)(2), (e)(6), (e)(7), (e)(8), 125.55 (d)(4)(i), (d)(4)(ii) and (d)(4)(v). Public notice shall also contain the following information:

(i) Reference to date and manner of each public notice of the proposed issuance, denial or modification of the general permit and any public hearings thereon; and

(ii) Address and telephone number of the place where interested persons may obtain further information, including a statement of the issues to be considered, copies of the request for evidentiary hearing filed under subpart D of this Part, and the draft permit prepared under paragraph (k) of this section; where such persons may inspect and copy forms, documents and other materials; and where such persons may submit a request to be admitted as a party and propose any material issues of fact not already proposed for consideration at the hearing;

(3) Requests for evidentiary hearings under this section shall be considered in accordance with procedures set forth in subpart D of this part.

(4) Evidentiary hearings held under this section shall be conducted in accordance with procedures set forth in subpart D of this part.

(5) The Regional Administrator may consolidate evidentiary hearings for two or more general permits proposed to be issued for GPPAs in the same State or Region.

(o) *Actions with regard to previously issued NPDES permits for point sources in the separate storm sewer and Agricultural activities categories.*

With regard to NPDES permits previously issued for discharges from separate storm sewers or agricultural point sources in reliance on prior regulations for such discharges the Regional Administrator shall:

(1) Initiate procedures as set forth in Part 125 for the revocation of any such NPDES permit; or

(2) Consider any such NPDES permit as continuing in full force and effect, pending the outcome of any evidentiary hearing on such permit. This option shall be considered an exercise of the discretion of the Regional Administrator to make case-by-case designations pursuant to paragraph (o)(1) of this section.

[FR Doc.77-3445 Filed 2-3-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 15]

[Docket No. 21010; RM-2577]

RADIO FREQUENCY DEVICES

UHF Television Receiver Noise Figures; Order Extending Time for Filing Comments and Reply Comments

Adopted: January 27, 1977.

Released: January 28, 1977.

In the matter of UHF Television Receiver Noise Figures, Docket No. 21010,[1] RM-2577.

The Consumer Electronics Group of the Electronic Industries Association has requested an extension of time to March 17, 1977 and April 29, 1977 within which Comments and Reply Comments respectively might be filed in this proceeding.

Because of the complexity of the matters under consideration in this proceeding and the Commission's desire to have meaningful data and information upon which to act, EIA's Request for Extension of Time is granted.

Accordingly, under the authority conferred by § 0.241(d) of the Commission's rules: *It is ordered*, That the times for filing Comments and Reply Comments in this proceeding are extended to March 17, 1977 and April 29, 1977 respectively.

RAYMOND E. SPENCE,
Chief Engineer.

[FR Doc.77-3621 Filed 2-3-77;8:45 am]

[47 CFR Part 73]

[Docket No. 20642; FCC 77-59]

RADIO BROADCAST SERVICES

Clear Channel Broadcasting in Standard Broadcast Band; Order Extending Time for Filing Reply Comments

Adopted: January 18, 1977.

Released: February 1, 1977.

In the matter of Clear Channel Broadcasting in the Standard Broadcast Band, Docket No. 20642.[2]

1. The Commission presently has before it a Motion Requesting Extension of the Time for Filing Reply Comments regarding the Notice of Inquiry and Notice of Proposed Rule Making in the above-captioned proceeding, 40 FR 58467. The present deadline for filing reply comments is January 24, 1977. Clear Channel Broadcasting Service ("CCBS") requests that the date be extended to June 30, 1977, and the Association for Broadcast Engineering Standards requests that the date be extended to May 24, 1977.

2. Movants note that in response to the Commission's request for comments, interested parties have filed over 180 pleadings which now fill more than four docket volumes. We are told that several of these filings are quite lengthy and complex. In addition, CCBS reminds the Commission that its announced primary aim in initiating this proceeding was to seek final resolution of the issues left unresolved by prior decisions in Docket 6741 (the clear channel proceeding). It cites four pleadings in particular (submitted by the Association for Broadcast Engineering Standards, the Corporation for Public Broadcasting, the Office of Telecommunications of the Department of Commerce and the American Telephone and Telegraph Company) which offer new plans or raise questions which would require additional time to consider.

3. CCBS calls our attention to the Third Notice of Inquiry in Docket No. 20271 regarding preparation for the World Administrative Radio Conference (WARC) in which it and other commenting parties have participated. It states that, in part, this conference is related to the use of portions of the standard broadcasting band and will have a bearing upon the considerations in the present proceeding. Although it does not request that we delay this proceeding in order to take into account determinations made in that proceeding, it explains that its engineering talent is presently engaged in the WARC inquiry thereby causing delays to its preparation of comments in this proceeding. Finally, it notes that several holidays which have intervened since the deadline for filing comments, which was November 22, 1976, have hampered its progress toward meeting the presently imposed deadline for reply comments. However, it anticipates that taking into consideration what it says is the enormity of the task before it and assuming unforeseen delays do not occur, an extension of five months for filing reply comments would be sufficient.

4. The Commission believes that the present deadline in question may be too restrictive to some parties who plan to file comprehensive and informative reply comments to the numerous pleadings presently on file. Such comments could involve preparations which attempt to substantiate or refute certain data offered. We do desire replies which are thorough and instructive and which might not otherwise be forthcoming if the dates were not extended. Therefore, the Commission believes it would be in the public interest to grant an extension of three months to April 26, 1977, for the filing of reply comments. It is our expectation that this additional time should be sufficient for the preparation of such responsive filings and that a five month extension is not necessary.

5. *Accordingly, it is ordered*, That the motions for extension of time for filing reply comments submitted by Clear Channel Broadcasting Service and the Association for Broadcast Engineering Standards are granted to the extent that the present deadline for filing reply comments is extended through April 25, 1977, and are denied in all other respects.

6. This action is taken pursuant to authority found in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended.

FEDERAL COMMUNICATIONS COMMISSION,[3]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-3615 Filed 2-3-77;8:45 am]

[47 CFR Part 73]

[Docket No. 21096; RM-2710]

FM BROADCAST STATIONS IN FARGO AND MAYVILLE, N. DAK.

Proposed Change in Table of Assignments

Adopted: January 26, 1977.

Released: February 2, 1977.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Fargo and Mayville, N. Dak., Docket No. 21096, RM-2710.

1. The Commission herein considers a "Petition for Rule Making"[4] filed on behalf of Communications Properties, Inc. ("CPI"), licensee of AM Station KFGO, Fargo, North Dakota, which seeks the assignment of Channel 270 to Fargo as a third commercial FM channel assignment to the community. In order to make the assignment, the petitioner also requests that Channel 288A be substituted for Channel 269A at Mayville, North Dakota.[5]

2. CPI describes Fargo (pop. 53,365)[6] as the largest city in the state of North Dakota and a major agricultural, retail and wholesale trade center. Fargo's population is reported to have risen approximately 50 percent over the last two decades with projections for the future indicating continued steady growth. Fargo is presently served by four AM stations: two fulltime facilities (KFGO, licensed to petitioner, and WDAY) and two daytime-only outlets, KQWB and KFNW; by two Class C FM stations (WDAY-FM, Channel 229, and KFNW-FM, Channel 250); and by noncommercial educational Station KDSU-FM, Channel 220, licensed to North Dakota State University.[7] CPI argues that because Fargo is an important community in the region, and because under our "population criteria" its population level would normally allow for the assignment of from 2 to 4 com-

[1] See 41 FR 56210, December 27, 1976.
[2] See 41 FR 40503, September 20, 1976.
[3] Commissioner Lee absent.
[4] Public Notice of the filing of the petition was issued on June 15, 1976 (Report No. 985).
[5] Under the Commission's minimum mileage separation requirements (§ 73.207(a) of the Commission's rules), a separation of 169 kilometers (105 miles) would be required between the proposed Mayville facility operating on Channel 269A and the proposed Fargo facility operating on Channel 270. Since Fargo is only about 80 kilometers (50 miles) south of Mayville, substitution is required.
[6] 1970 U.S. Census.
[7] Fargo also receives aural service from broadcast stations located in Moorhead, Minnesota, directly adjacent to and east of Fargo. That service consists of one AM station, two commercial FM outlets, and one noncomercial educational FM facility.

mercial FM channels, a clear need for a third channel assignment has been established.[6] The petitioner avers that if the assignment is made as requested, it will promptly apply to construct and operate a station on the channel.

3. If Channel 270 were to be assigned to Fargo, it would be necessary, as noted before, to substitute a Class A channel at Mayville. The present assignment there is occupied by KMAV, Inc. who, we are told, has commenced construction of a station on Channel 269A pursuant to a permit issued by the Commission. However, the permit is conditioned upon the outcome of this proceeding. Since KMAV, Inc., accepted the permit with the condition attached, an Order to Show Cause why its permit should not be modified is not required. In addition, reimbursement for any changes Station KMAV must make is not required.[6]

4. The assignments of Channel 270 and Channel 288A to Fargo and Mayville, respectively, would create considerable areas of co-channel and adjacent channel preclusion, most of which would be mitigated by the availability of alternate channels in the precluded areas. Four communities, three in Minnesota (Warren, Red Lake Falls, and Bagley), and one in North Dakota (New Rockford), are located in the preclusion areas but do not have channels presently assigned. Petitioner should identify in its comments alternate channels that may be used in those communities.

5. In the event that Channel 270 is assigned to Fargo,[7] the transmitter site for such a facility must be located at least 26 kilometers (16 miles) northwest or 35 kilometers (22 miles) west-southwest of the community.[8] Using one such site, approximately 42 kilometers (26 miles) southwest of Fargo, the petitioner asserts that a facility operating at 100 kW and approximately 113 meters (600 ft.) HAAT would provide a first commerical FM service for 3,081 persons in an area of approximately 790 square kilometers (305 square miles), a second commercial FM service to nearly 8,000 persons in an area of 1,868 square kilometers (720 square miles), a first aural nighttime service to 42 persons in an area of approximately 67 square kilometers (26 square miles), and a second aural nighttime service to 4,354 persons in an area of approximately 378 square kilometers (146 square miles). In order to place any reliance on these assertions it is necessary to know if petitioner could be relied upon to utilize this site.

6. We conclude on the basis of the showings offered by the petitioner that further inquiry is appropriate. The potential public interest benefits to be derived from the creation of additional aural service justify the issuance of this Notice of Proposed Rule Making.

7. Accordingly, the Commission proposes to amend the FM Table of Assignments (§ 73.202(b) of the Commission's rules), in the following manner for the communities listed below:

City	Channel No.	
	Present	Proposed
Fargo, N. Dak.	229, 250	229, 250, 270
Mayville, N. Dak.	269A	288A

8. *It is further ordered*, That the Secretary of the Commission is directed to send a copy of this Notice of Proposed Rule Making by Certified Mail, Return Receipt Requested, to the following party:

KMAV, Inc., c/o A. L. Stein, Esquire, 1129 Munsey Building, Washington, D.C. 10004.

9. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

10. Interested parties may file comments on or before March 14, 1977, and reply comments on or before April 4, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in ititial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

[FR Doc.77-3622 Filed 2-3-77;8:45 am]

[47 CFR Part 73]

[Docket No. 21097; RM-2779]

FM BROADCAST STATION IN CHADRON, NEBRASKA

Proposed Change in Table of Assignments

Adopted: January 27, 1977.

Released: February 2, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Chadron, Nebraska), Docket No. 21097, RM-2779.

1. PETITIONER, PROPOSAL AND COMMENTS

(a) Notice of proposed rule making is hereby issued concerning the amendment of the FM Table of Assignments (§ 73.202 (b) of the Commission's rules and regulations) with regard to the community of Chadron, Nebraska.

(b) The petition for rule making, of which Public Notice of its filing was given November 3, 1976 (Report No. 1014) was

[6] CPI claims that Fargo is really served by only one "normal entertainment oriented" FM station (WDAY-FM), since Station KPNW-FM, operates as a noncommercial religious station. However we need not determine to what extent this station offers the normal programming of a commercial station since Fargo is entitled to an additional FM commercial station in any event.

[6] Petitioner has stated that it has agreed to reimburse Station KMAV for any necessary additional expense incurred by the change of channels. However, any such payment on its part would be on a voluntary basis.

[7] Canadian concurrence in the assignment must be obtained.

[8] Section 73.207 (Note) of the Commission's rules requires a minimum mileage separation of 30 miles between assignments separated by 54 channels as is Station KCCM-FM (Channel 216), Moorhead, Minnesota. It operates at a site approximately 14 miles southeast of Fargo which will require applicants for the Fargo channel to select a site well removed from this community.

filed on behalf of Big Sky Company ("Big Sky"), proposing the substitution of either Channel 248 or 259 for Channel 234 (all Class C) at Chadron, Nebraska.

(c) Either channel could be assigned to Chadron in conformity with the minimum distance requirements.

2. DEMOGRAPHIC DATA

(a) *Location.* Chadron is located in northwestern Nebraska approximately 390 kilometers (240 miles) northeast of Denver, Colorado.

(b) *Population.* (1970 U.S. Census), Chadron, 5,853; Dawes County 9,693.

(c) *Present local aural services.* Station KCSR(AM) daytime-only. FM Channels 228A and 234 [1] are assigned to Chadron but are unoccupied and unapplied for.

3. PRECLUSION STUDIES

Channel 248. Preclusion would occur co-channel and on adjacent Channel 249A. The Commission's preclusion study indicates that sixteen communities, ranging in population from 1,067 to 14,507 (five of which have over 2,500 persons), would be precluded as a result of the assignment of Channel 248 to Chadron, Nebraska. Eleven [2] of these communities have no FM assignments or AM stations. Four have at least one FM assignment and an AM station; and one has an AM station only.

A petition (RM-2731) proposing the assignment of Channel 245 to Gillette, Wyoming, is pending. If this proposal is denied, Gillette will be precluded from operation on Channel 248 (Gillette has a population of 7,194 and has a full-time AM station and an FM assignment). Sundance, Wyoming (pop. 1,056) would be precluded on Channels 247 and 248. Sundance has no AM stations or FM assignments.

Channel 259. Preclusion would occur on the co-channel and five adjacent channels (256, 257A, 258, 260 and 261A). Sixteen communities, ranging in population from 1,067 to 19,447 (eight of which have over 2,500 persons) would be precluded as a result of the assignment of Channel 259 to Chadron, Nebraska. Eight [3] of these communities have no FM assignments or AM stations; seven have at least one FM assignment and an AM station; and one has an AM station only.

[1] Big Sky tendered an application for a construction permit on June 1, 1976, to operate an FM station on Channel 234 in Chadron, but the application was rejected because the site specified was short-spaced to the site of Station KNEB-FM operating on Channel 231 in Scottsbluff, Nebraska. Big Sky's application was returned on October 20, 1976.

[2] Nebraska: Bayard (pop. 1,338); Bridgeport (1,490); Chappell (1,204); Gordon (2,106); Mitchell (1,842); Oshkosh (1,067); Rushville (1,137). South Dakota: Martin (1,238); Pine Ridge (2,768). Colorado: Julesburg (1,578); Holyoke (1,640).

[3] Nebraska: Bayard (pop. 1,338); Gordon (2,106); Grant (1,099); Imperial (1,580); Mitchell (1,842); Rushville (1,137). South Dakota: Pine Ridge (2,768); Martin (1,248).

4. ADDITIONAL CONSIDERATIONS

Chadron (pop. 5,853) is assigned two FM channels, one of which is a Class A channel. Although interest has been shown for the use of the Class C assignment, because of the intermixture of classes of channels, there is a question of whether a demand for the use of a Class A channel would ever arise. Since it is possible to assign another Class C channel to this area, a Class C channel could be assigned a substitute for the present Class A assignment, provided an interest for its use is shown. Otherwise Channel 228A presently assigned to Chadron would be deleted without a replacement channel in its stead. The present proposal encompasses both possibilities.

The Notice herein proposes substitution of Channel 248 for Channel 234. However, if any party is interested in the assignment of Channel 259 to Chadron, it should show the public interest need for the second Class C channel assignment. Such a proponent should also submit "Roanoke Rapids" and "Anamosa" showings [4] and a showing of the availability of other FM channels for assignment to the communities listed above in the precluded areas for Channel 259.

5. Big Sky states that, if the requested substitute channel is approved, it will make application to construct an FM broadcast station.

6. In light of the above, the Commission proposes to amend the FM Table of Assignments, as to the named community as follows:

City	Channel No.	
	Present	Proposed
Chadron, Nebr.	228A, 234	248
Do.	228A, 234	248, 259

7. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures used; and filing requirements are contained below and are incorporated herein.

8. Interested parties may file comments on or before March 14, 1977, and reply comments on or before April 4, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.77-3619 Filed 2-3-77;8:45 am]

[4] Roanoke Rapids, 9 F.C.C. 2d 672 (1967). Anamosa and Iowa City, Iowa, 46 F.C.C. 2d 520 (1974).

[47 CFR Part 73]

[Docket No. 20811; RM-2681]

FM BROADCAST STATION IN BILLINGS, MONTANA

Report and Order Denying Petition for Rule Making

Adopted: January 27, 1977.

Released: February 1, 1977.

Report and Order—Proceeding Terminated. In the matter of amendment of

§ 73.202(b), *Table of Assignments*, FM Broadcast Stations (Billings, Montana), Docket No. 20811, RM-2681.

1. On May 13, 1976, the Commission adopted a notice of proposed rulemaking (41 FR 21363) to assign Channel 223 as a fifth assignment to Billings, Montana, at the request of Radio Billings, Inc. ("RBI"), licensee of AM Station KBMY, Billings, Montana.[1]

2. In response to the notice, comments were filed by RBI, Communications Investment Corporation, licensee of Stations KGHL(AM) and KBMS(FM), Billings, and Mattco, Inc., licensee of AM Station KOOK, Billings.[2]

3. On September 17, 1976, RBI filed comments in which it stated that there have been a number of circumstances which have led it and its parent corporation to reconsider its Channel 223 proposal. RBI determined that it is not now feasible to pursue its proposal to assign a fifth channel to Billings and further states it has no present intention to file a competing application for a construction permit for Billings Channel 275 which has been applied for by Mattco, Inc.[3] For these reasons RBI requests that the Commission terminate the proceeding.

4. No other parties have expressed an interest in operating a station on Channel 223 at Billings. The Commission generally does not make FM assignments without assurance from a party that it intends to operate a station on the channel if assigned. We see no reason to assign the channel as originally proposed. Therefore, the Table of FM Assignments will remain unchanged as regards Billings, Montana. This action is without prejudice to consideration of a new petition for rulemaking should an interested party come forward in the future.

5. Authority for the action taken herein is contained in sections 4(i), 5(d)(1), 303(g) and (r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules and regulations.

6. In view of the foregoing, the petition of Radio Billings, Inc. is denied and this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-3617 Filed 2-3-77;8:45 am]

[1] RBI submitted this proposal as a counterproposal in Docket No. 20644 in which a proposed fourth Class C FM channel (275) for Billings was assigned. As explained in that Docket, we decided to pursue this proposal to assign a fifth channel to Billings in a separate proceeding rather than consolidate the two proposals. See also 41 FR 38192, September 9, 1976.

[2] In view of the disposition of this matter, the comments of Communications Investment Corporation and Mattco, Inc., become moot.

[3] Mattco, Inc. has an application (BPH-10058) pending on Channel 275 in Billings. It had previously stated that it might be interested in appling for Channel 223 should it lose, in a comparative hearing, its bid for a construction permit on Channel 275. Since RBI has stated it has no intention of filing a competing application for a construction permit on Channel 275, there would appear to be no reason for Mattco, Inc., to be interested in Channel 223.

[47 CFR Part 73]

[Docket No. 20735]

RADIO BROADCAST SERVICES

Noncommercial Educational FM Broadcast Stations; Order Extending Time for Filing Reply Comments

Adopted: January 26, 1977.

Released: February 1, 1977.

In the matter of changes in the rules relating to Noncommercial Educational FM Broadcast Stations, Docket No. 20735.

1. On March 17, 1976, the Commission adopted a notice of proposed rulemaking, 41 FR 16973, in the above-entitled proceedings. The date for filing comments has expired and the date for filing reply comments is presently February 14, 1977.[1]

2. On January 19, 1977, the Association of Maximum Service Telecasters, Inc. ("MST") requested that the time for filing reply comments be extended to and including March 31, 1977. MST states that several lengthy and comprehensive comments have been submitted on behalf of parties representing a wide range of interests and raising a substantial number of issues concerning educational FM interference to TV Channel 6 reception. It adds that the Corporation for Public Broadcasting also submitted a proposal which includes a lengthy engineering statement and a proposed national table of allocations for educational FM stations. MST states the additional time is necessary to reply competently and constructively to these comments.

3. We are of the view that the public interest would be served by extending the time in this proceeding. The time for filing original comments was extended on two occasions and for that reason, too, additional time is needed to prepare replies. *Accordingly, it is ordered*, That the date for filing reply comments in Docket 20735 is extended to and including March 31, 1977.

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

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-3616 Filed 2-3-77;8:45 am]

[1] See 41 FR 43422, October 1, 1976.

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

PASSTHROUGH OF INCREASED NON-PRODUCT COSTS BY RESELLERS AND RETAILERS OF PROPANE AND BUTANE

Proposed Rulemaking and Public Hearing

The Federal Energy Administration ("FEA") hereby gives notice of a proposal to amend Part 212, the Mandatory Petroleum Price Regulations, to give certain resellers and retailers of propane and butane the option of using the standardized cents per gallon markup currently set forth in § 212.93(b)(4) to reflect increased non-product costs attributable to sales of propane and butane or passing through without regard to the cents per gallon limitation of § 212.93(b)(4) the amounts calculated for certain defined categories of increased non-product costs attributable to sales of propane and butane. Large firms would be required to use the latter method. Comparable amendments are proposed to § 212.83(c)(2)(iii)(E), concerning the application of marketing cost increases to propane prices by refiners. Also, FEA proposes to permit resellers and retailers, which are subject to the provisions of § 212.93(b)(4), to carry forward for possible future recovery increased non-product cost incurred in the sale of propane and butane which are not recovered in the current month.

I. HISTORY

Pursuant to §§ 212.83(c)(2)(iii) and 212.93(b), refiners, resellers and retailers of propane and butane are permitted to charge a price for propane or butane which is the weighted average price for the product to the class of purchaser concerned on May 15, 1973, plus an amount which reflects dollar-for-dollar pass through of the increased cost of the product since May 15, 1973. In addition, beginning April 1, 1974 (39 FR 12010, April 2, 1974), §§ 212.83(c)(2)(iii)(E) (originally § 212.87(c)(4)(vi)) and 212.93(b)(4) permitted sellers of propane in sales other than retail sales to add one-half cent per gallon and in retail sales to add one cent per gallon to prices otherwise permitted to be charged, to reflect non-product cost increases incurred by the seller in sales of propane after May 15, 1973.

On October 7, 1975 (40 FR 47755, October 10, 1975), §§ 212.83(c)(2)(iii)(E) and 212.93(b)(4) were amended to increase the maximum markup to reflect non-product cost increases in retail sales of propane from one cent per gallon to three cents per gallon, except for bulk sales to public utilities, synthetic natural gas plants and the petrochemicals industry. The increased non-product cost markups to these customers remained limited to not more than one cent per gallon.

With respect to butane, no price increases to reflect increased non-product costs are permitted.

This notice of proposed rulemaking proposes to allow certain resellers and retailers of propane and butane the option of passing through without regard to any cents per gallon price limitation certain defined non-product cost increases incurred by the reseller or retailer in sales of propane or butane or of using the standard cen's per gallon markups currently applied to sales of propane to reflect non-product cost increases of propane and butane. Large resellers (those with sales in the preceding calendar year of five million or more gallons of propane and butane) would be required to calculate their increased non-product costs pursuant to the proposed new regulations.

II. Standardized Markup Concept

The standardized cents-per-gallon markup to reflect cost increases currently provided for by the regulations was first implemented during Phase IV of the Cost of Living Council ("CLC") program for certain covered products, to serve as a guide to and as a ceiling on the amount of non-product cost increases which could be passed through in price increases. The standard markup served as a guide in determining price increases for the great majority of resellers and retailers because they were unable accurately to calculate actual non-product cost increases on a cents per gallon basis. It also served as a ceiling on the pass through of non-product costs by resellers and retailers because the standardized markups permitted were conservative estimates of actual non-product cost increases incurred by this segment of the industry.

The primary reasons the standardized markups to reflect increased non-product costs for covered products were adopted were administartive. First, thousands of small firms with unsophisticated accounting systems were subject to petroleum product price controls for the first time and accurate calculation of increased non-product costs for each covered product on a per-gallon basis could not realistically be expected. Second, the CLC and subsequently the FEA did not have the manpower necessary to audit individual firms' non-product cost increase calculations and thus a total industry enforcement effort was not feasible. Even though price increases to reflect the standardized markup must be cost justified, (See Rulings 1975–14 and 1975–16) because of the conservative markups permitted by FEA, a majority of sellers can cost justify the maximum amount permitted under the standardized cents per gallon markups.

III. Pass-Through of Defined Non-Product Cost Increases

With respect to propane and butane, there are three reasons FEA proposes to give resellers and retailers the option of using the standardized cents per gallon markup, which serves as a guide to and limit on non-product cost increase passthroughs, or of permitting firms to pass through non-product cost increases calculated pursuant to certain defined category limitations, without regard to any cents per gallon limitation.

First, the number of resellers and retailers of propane and butane, in relation to the total number of sellers of petroleum products, is not large. Accordingly, it is feasible for FEA to monitor non-product cost increase calculations to insure they are calculated accurately.

Second, retailers and resellers of propane have considerable experience in making the computations necessary to comply with the proposed FEA regulations. The two increases in the standardized cents per gallon markup permitted to date for propane have been based on evidence supplied by the industry indicating that a larger markup was justified because of increased non-product costs. Thus, the majority of retailers and resellers of propane and butane have experience in making non-product cost increase computations on a cents per gallon basis.

Third, the conservative standard markup permitted sellers of propane apparently does not currently reflect the actual non-product cost increases being incurred by many firms. Thus, those sellers currently forced to absorb increased non-product costs because the standard markup is too low will be given the option of recouping actual cost increases.

IV. Non-Product Cost Categories

FEA proposes to limit the amount of increased non-product cost which may be passed through by sellers of propane and butane, which opt to pass through non-product cost increases pursuant to this proposal, to seven defined categories. The categories are labor, utility, interest, tax, maintenance, depreciation, and overhead cost increases, including rent and transportation. All non-product cost increase calculations must be computed and be attributable to the sale of propane or butane according to generally accepted accounting practices historically and consistently applied by the firm concerned.

A. *Labor cost increase.* Labor cost is the total dollar amount of remuneration or inducement, either direct or indirect, paid for personal services to personnel employed by the firm. Compensation for any services paid to personnel who own or control a financial interest (share in the firm's profits) in the firm are excluded from this calculation. Also, no amount included in maintenance cost increase may be included in labor cost increase.

B. *Utility cost increase.* Utility cost is the total dollar amount paid for the use of any service or commodity provided by a regulated public utility.

C. *Interest cost increase.* Interest cost is the total dollar amount paid for the use of capital during the designated time period.

D. *Federal, State and Local tax increase.* The "federal, state and local tax increase" category of increased non-product costs includes costs incurred in payment of new types of property, excise, franchise and other similar taxes such as license fees imposed since May, 1973, as well as increases in the actual dollar amount of such taxes per unit of sales incurred in the month of measurement over the amount per unit of sales incurred in May, 1973. Federal, state or local income taxes are excluded from this category of increased non-product costs.

E. *Maintenance cost increase.* Maintenance cost is the cost attributable to repairing and servicing the firm's equipment, machinery, and facility. Maintenance cost includes the cost of contract maintenance.

F. *Depreciation cost increase.* Depreciation cost is the cost attributable to depreciation of the firm's equipment, machinery, and facility. Allowable depreciation cost and the method of calculation of such cost shall be consistent with depreciation cost computations used by the firm on its income tax return or other comparable regulatory filing.

G. *Overhead cost increase.* Overhead cost increase includes the dollar amount of costs of rent, postage, insurance, outside legal and accounting fees, and transportation costs directly attributable to reselling and retailing operations. Transportation costs included in the computation of product cost increase (i.e., transportation cost associated with bringing product into inventory) are not included in this definition. FEA invites comments as to other overhead expenses which sellers would like to be included in this paragraph. Su h comments should contain financial data documenting the need to include such cost in the definition of overhead cost increase."

V. Non-Product Cost Increase Calculation

FEA proposes to use a "sales adjusted method" to compute increased non-product cost. This method of computing cost increases is similar to the present "output adjusted method" for computation of refiners' non-product cost increases. Pursuant to the "sales adjusted method" of computation the amount of increase in each category of non-product cost is computed by determining the difference between the amount of the specific non-product cost in the month of measurement per unit of propane or butane sold and the amount of that cost in May 1973 per unit of propane or butane sold, multiplied by the amount of sales in the month of measurement.

FEA recognizes that non-product costs in certain categories are typically paid or incurred on an irregular basis. Accordingly, it is proposed that costs paid or incurred less frequently than monthly or incurred each month but in significantly different amounts independent of sales be averaged over the period to which they apply, to calculate non-product costs for May 1973 and for the month of measurement.

The requirement to average such costs over the entire period to which they apply means generally that, if, pursuant to generally accepted accounting practices historically and consistently applied by

the firm concerned, costs are accrued in advance of being incurred, such costs may also be accrued for purposes of calculating non-product cost increases. However, in such instances appropriate corrective adjustments must be made to reflect the costs actually incurred. The time period over which such costs must be averaged will vary according to the type of cost, but in the ordinary case, except for costs which typically occur at intervals of greater than one year, the costs treated as paid or incurred during a firm's fiscal year under the accrual provision in computing monthly amounts of increased non-product costs must not exceed the amounts of such costs actually paid or incurred during that fiscal year.

For example, a reseller that, pursuant to generally accepted accounting practices historically and consistently applied by that firm, during the month of May 1973 and during the month of measurement accrued the costs of taxes incurred over its fiscal year shall compute "federal, state, and local tax increase" per unit of sales by computing the difference between (1) the accrued cost of taxes incurred per unit of sales for the month of measurement and (2) the accrued cost of taxes incurred per unit of sales for May 1973.

However, a reseller that, pursuant to generally accepted accounting practices historically and consistently applied by that firm, during the month of May 1973 and during the month of measurement did not accrue the costs of taxes incurred shall compute "federal, state, and local tax increase" per unit of sales by computing the difference between (1) the total actual cost incurred for taxes per unit of sales in the month of measurement and (2) the total actual cost incurred for such taxes per unit of sales during the firm's fiscal year which included May 1973.

VI. Filings

FEA proposes that a seller which elects or is required to pass through increased non-product costs calculated pursuant to the formulae proposed in this notice be required to file with the appropriate FEA regional office its May 15, 1973 non-product costs as defined in this section. Once a seller elects to pass through increased non-product cost pursuant to this proposal, it shall continue to do so and may not use the standardized mark-up in a subsequent month.

VII. Carry-Forward of Unrecovered Increased Non-Product Cost

FEA proposes to allow sellers of propane and butane to carry forward or "bank" non-product cost increases unrecouped in the current month for recovery in a subsequent month. This is consistent with FEA's policy of permitting refiners to "bank" unrecouped non-product cost increases.

Sellers may carry forward such unrecouped costs regardless of the option, as set forth in § 212.93(b)(4), the seller chooses to calculate increased non-product cost.

VIII. Natural Gasoline

FEA invites comments as to whether or not to permit sellers of natural gasoline to pass through increased non-product cost. Such comments should include financial data documenting increases in non-product cost with respect to sales of natural gasoline incurred by the seller since May 15, 1973.

IX. Effective Date

FEA proposes to make these amendments effective with respect to sales of propane and butane beginning March 1, 1977.

X. Hearing Procedures

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this notice to Executive Communications, Room 3309, Federal Energy Administration, Box KL, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Resellers/Retailers Increased Non-Product Costs of Propane and Butane." Fifteen copies should be submitted. All comments received by Thursday, February 17, 1977, before 4:30 p.m., will be considered by the Federal Energy Administration before final action is taken on the proposed regulations.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination. The public hearing in this proceeding will be held at 9:30 a.m., on Tuesday, February 22, 1977, in Room 2105, 2000 M Street, NW., Washington, D.C. 20461, in order to receive comments from interested persons on the matters set forth herein.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., on Thursday, February 10, 1977. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he is proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he may be contacted through Friday, February 11, 1977. Each person selected to be heard will be so notified by the FEA before 4:30 p.m., Friday, February 11, 1977, and must submit 100 copies of his statement to FEA Executive Communications, Room 3309, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, before 4:30 p.m., on Friday, February 18, 1977.

The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearings, to Executive Communications, FEA, before 4:30 p.m., Friday, February 18, 1977. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 pm., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

NOTE.—The FEA has determined that this document contains a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107 and certifies that an Inflation Impact Statement has been prepared.

(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 of Title 10 of the Code of Federal Regulations are proposed to be amended as set forth below.

Issued in Washington, D.C., February 2, 1977.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

1. Section 212.83(c)(2)(iii)(E) is amended by revising paragraph VI in the definition of $F_i{}^t$ in the "N" factor to read as follows:

§ 212.83 Price rule.

* * * * *

(c) *Allocation of increased costs.* * * *
(2) *Formulae.* * * *
(iii) *Definitions.* * * *
(E) *The "N" factor.* * * *

$F_i{}^t$ = the marketing cost increase and is the difference between the cost of marketing covered products in the month of measurement and the cost of marketing covered products in the month of May, 1973. "Cost of marketing covered products" means the costs attributable to marketing operations with respect to covered products provided that such costs are included only to the extent that they are so attributable under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned and are not included in computing May 15, 1973 prices, in computing increased product costs, or in computing other increased non-product costs. A refiner must prepare a schedule itemizing the principal costs included in this category and describing the accounting procedures by which they are calculated. The amount of marketing cost increase which may be applied to compute maximum allowable prices for covered products is, however, limited to the extent that such marketing cost increases may:

* * * * *

(VI) Allow an increase in the price of propane and butane, in sales after March 1, 1977, above the prices otherwise permitted to be charged for propane or butane pursuant to the provisions of this part by the amount of increased non-product cost incurred by the refiner for its propane and butane marketing activities and calculated pursuant to the provisions in § 212.93(b)(4)(iii)(B).

* * * * *

2. Section 212.93(b)(4) and (e) are amended to read as follows:

§ 212.93 Price rule.

(b) Notwithstanding the provisions of paragraph (a) of this section:

* * * * *

(4) With respect to sales of propane and butane beginning with March, 1977:
(i) A seller, which sold fewer than five million gallons of propane and butane in the immediately preceding fiscal year, may charge a price in excess of the amount otherwise permitted to be charged for propane or butane pursuant to the provisions of this section to reflect increased non-product cost which the seller incurred after May 15, 1973: *Provided,* That the amount to reflect increased non-product cost is no greater than the amount calculated pursuant to either paragraph (b)(4)(iii)(A) or (B) of this section. However, any seller which elects to pass through increased non-product cost pursuant to paragraph (b)(4)(iii)(B) of this section in subsequent months may not pass through increased non-product cost pursuant to paragraph (b)(4)(iii)(A) of this section.

(ii) A seller with sales of propane and butane of five million gallons or more during the immediately preceding fiscal year may charge a price in excess of the amount otherwise permitted to be charged for propane or butane to reflect increased non-product cost which the seller has incurred after May 15, 1973: *Provided,* That the seller calculates non-product cost increases pursuant to paragraph (b)(4)(iii)(B) of this section.

(iii) *Maximum allowable amounts of increased non-product costs.* The maximum amounts of increased non-product costs which may be reflected in prices charged for propane or butane pursuant to §§ 212.93(b)(4)(i) and (ii) and 212.83(c)(2)(iii)(E)(VI) are either:

(A) Three cents per gallon with respect to all retail sales of propane and butane except those to the petrochemicals industry, to public utilities and to synthetic natural gas plants; one cent per gallon with respect to retail sales of propane and butane to the petrochemicals industry, to public utilities and to synthetic natural gas plants and one-half cent per gallon with respect to all other sales of propane and butane; or,

(B) The amount of increased non-product cost incurred by the firm since May, 1973, which is computed pursuant to the factor "E_i" as follows:

$E_i{}^t$ = the total increased non-product costs attributable to sales of propane and butane incurred during the period "t": *Provided,* That such costs are included only to the extent that such costs are attributable to propane and butane sales operations during the period "t" under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned, and are not included in computing May 15, 1973 prices or in computing increased product costs. Costs paid or incurred periodically but less frequently than monthly or incurred each month but in significantly different amounts independent of sales variations must be charged as incurred over the entire period to which they apply in computing May 1973 increased costs and charged according to the customary accounting practices generally accepted and historically and consistently applied by the firm concerned, in computing month of measurement increased costs. Except for costs which FEA finds typically occur at intervals of greater than one year, the costs treated as paid or incurred during a firm's fiscal year by inclusion in "E_i" shall not exceed the amounts of such costs actually paid or incurred during that fiscal year. "E_i" shall be computed by adding the amounts calculated by applying the following formula separately to § 212.93(b)(4)(iii)(B), paragraphs (I) through (VII).

$$E_n{}^t = R^t \left(\frac{C_n{}^t}{R^t} - \frac{C_n{}^o}{R^o} \right)$$

$E_n{}^t$ is the total increased non-product costs of the type "n" incurred during the period "t", *Provided,* That such costs are included only to the extent that they are attributable to propane and butane sales operations during the period "t" under generally accepted accounting practices historically and consistently applied by the firm concerned and are not included in computing May 15, 1973 prices or in computing increased product costs.

Where:

"n" references a category of non-product cost attributable to propane and butane sales operations as defined in paragraphs (I) through (VII), and is respectively labor, utility, interest, tax, maintenance, depreciation and overhead cost increases.
R^t = the total volume of propane and butane sold by the firm in the period "t."
R^o = the total volume of propane and butane sold by the firm in the period "o."
$C_n{}^t$ = the total dollar amount of the particular increased non-product cost of the type "n" incurred in the period "t."
$C_n{}^o$ = the total dollar amount of the particular increased non-product cost of the type "n" incurred in the period "o."
"o" = the month of May, 1973.
"t" = the month of measurement, which is the month preceding the current month.

(I) *Labor cost increase.* Labor cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" refers to the total dollar amount of direct and indirect remuneration or inducement for personal services which are reasonably subject to valuation for those personnel employed by the firm and directly involved in propane and butane sales operations, except personal services provided by personnel which own any portion of or receive any profits from the firm involved. No amount included in maintenance cost increase may be included in labor cost increase. The calculation must be based on the historical accounting practices employed by the firm and must be substantiated by a supporting document which summarizes the personnel considered in the calculation and the date of any remuneration increases.

(II) *Utility cost increase.* Utility cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" refers to the dollar amount of costs incurred for utilities.

(III) *Interest cost increase.* Interest cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" refers to the dollar amount of costs incurred for interest.

(IV) *Federal, state, and local tax cost increase.* Federal, state and local tax cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" refers to the dollar amount of federal, state, and local property, excise, franchise and other similar taxes incurred which are associated with propane and butane sales operations. Federal, state, and local income taxes are not includable in this amount.

(aa) Taxes that are paid or incurred at greater than monthly intervals and are treated, pursuant to generally accepted accounting practices historically and consistently applied by the firm concerned, on an accrual basis and are prorated shall be accrued and prorated for purposes of calculating per unit non-product costs for the month of May 1973 ("$C_n{}^o/R^o$") and the month of measurement ("$C_n{}^t/R^t$").

(bb) Taxes that are paid or incurred at greater than monthly invervals and are not treated on an accrual basis and prorated over an appropriate period shall be computed for purposes of calculating per unit non-product costs for the month of May 1973 ("$C_n{}^o/R^o$") by adding all such taxes paid or incurred during the firm's fiscal year which includes May 1973 and dividing by the firm's sales during that period. Taxes that are paid or incurred at greater than monthly intervals and are not treated on an accrual basis and prorated over an appropriate period shall be computed for purposes of calculating per unit non-product costs for the month of measurement ("$C_n{}^t/R^t$") according to generally accepted accounting practices historically and consistently applied by the firm concerned.

(V) *Maintenance cost increase.* Maintenance cost increase is computed by applying the formula for "$E_n{}^t$" above. For purposes of this computation "C" is the dollar amount of operating cost attributable to maintenance operations which are associated with propane and butane sales operations. Maintenance cost increase includes the cost of contract maintenance. The maintenance cost increase for maintenance expenses that are paid or incurred at greater than monthly intervals shall be computed as follows:

(aa) Maintenance expenses that are paid or incurred at greater than monthly intervals and are treated, pursuant to generally accepted accounting practices historically and consistently applied by the firm concerned, on an accrual basis and are prorated over an appropriate period shall be accrued and prorated for purposes of calculating per unit non-product costs for the month of May 1973 ("C_n^*/R^*") and the month of measurement ("C_n^t/R^t").

(bb) Maintenance expenses that are paid or incurred at greater than monthly intervals and are not treated on an accrual basis and prorated over an appropriate period shall be computed for purposes of calculating per unit non-product costs for the month of May 1973 ("C_n^*/R^*") by adding all maintenance expenses paid or incurred during an appropriate period acceptable to FEA and dividing by sales during that period. Maintenance expenses that are paid or incurred at greater than monthly intervals and are not treated on an accrual basis and prorated over an appropriate period shall be computed for purposes of calculating per unit non-product costs for the month of measurement ("C_n^t/R^t") according to generally accepted accounting practices historically and consistently applied by the firm concerned.

(VI) *Depreciation cost increase.* Depreciation cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" is the cost attributable to the depreciation of equipment, machinery, and the facility, which are associated with propane and butane sales operations; *Provided,* That such costs are computed according to generally accepted accounting practices historically and consistently applied by the firm for the Internal Revenue Service or a comparable regulatory agency (or if no financial statements are so filed, according to generally accepted accounting practices historically and consistently applied by the firm concerned and acceptable to FEA) and are included only to the extent that such costs are not otherwise covered bu this section: *And provided,* That the depreciable life used is no shorter than the depreciable life used, and the dollar amount depreciated is not greater than the dollar amounts depreciated, by the firm for purposes of computing its federal income tax return. No capital investments may be included in non-product costs as expenses; all such investments must be capitalized and depreciated and included in the computation of "E_n^t" for depreciation cost increase.

(VII) *Overhead cost increase.* Overhead cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" is the dollar amount of costs of rent, postage, insurance, outside legal and accounting fees, and transportation costs directly attributable to propane and butane sales operations and not included in the calculation of increased product cost: *Provided,* That such costs are computed according to generally accepted accounting practices and historically and consistently applied.

* * * * *

(e) Notwithstanding the provisions of paragraph (a) of this section:

(1) If a seller charges prices for a particular product that result in the recoupment of less total revenues than the total amount of increased product costs of that product incurred during that month, the amount of increased product cost not recouped by a price adjustment in the subsequent month pursuant to paragraph (a) of this section may also be added to the May 15, 1973, selling prices of that product in a subsequent month at the time the selling prices are computed pursuant to paragraph (a). A seller shall calculate its amount of increased product cost of a particular product not recouped, since the most recent price increase after November 1, 1973 to include the following: (i) Any "increased product costs" not added to the May 15, 1973 selling price at the time of the most recent price increase implemented after November 1, 1973 multiplied by the volume sold since that price increase, plus (ii) increases in the weighted average unit cost above the weighted average unit cost which was used to calculate the most recent price increase implemented after November 1, 1973 multiplied by the volume of product purchased at each such increased product cost, less (iii) any decrease in the weighted average unit cost from the weighted average unit cost which was used to calculate the most recent price increase implemented after November 1, 1973 multiplied by the volume of product purchased at each such lesser cost. With respect to each covered product, when a seller calculates its amount of increased product cost not recouped under this paragraph, it shall calculate its revenues as though the greatest amount of increased product costs actually added to the May 15, 1973 selling price of that covered product and included in the price charged to any class of purchaser, had been added, in the same amount, to the May 15, 1973 selling price of such covered product and included in the price charged to each class of purchaser; except that, where an equal amount of increased product cost is not included in the price charged to a purchaser because of a price term of a written contract covering the sale of such product which was entered into on or before September 1, 1974, such portion of the increased product costs not included in the price charged to such a purchaser need not be included in the calculation of revenues.

(2) With respect to sellers of propane and butane, beginning March 1, 1977, the amount of increased nonproduct cost calculated pursuant to paragraph (b)(4) of this section not recouped by a price adjustment in the subsequent month pursuant to paragraph (b)(4) of this section may also be added to the May 15, 1973 selling price of propane or butane at the time the selling prices are computed pursuant to paragraphs (a) and (b)(4) of this section.

[FR Doc.77-3819 Filed 2-2-77;1:24 pm]

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

Animal and Plant Health Inspection Service

SPECIFIC APPROVAL OF STOCKYARDS AND SLAUGHTERING ESTABLISHMENTS

The regulations in 9 CFR Part 78, as amended, contain restrictions on the interstate movement of cattle, other domestic animals, and bison to prevent the spread of brucellosis. This document adds certain stockyards and slaughtering establishments to the list of those specifically approved for purposes of the regulations, on the basis of a determination of their eligibility for such approval under § 78.25(b) of the regulations and removes from the list certain other stockyards and slaughtering establishments which have been found no longer to qualify for such approval. Name changes are also made with respect to certain stockyards and slaughtering establishments.

Pursuant to § 78.25(b) of the regulations (9 CFR 78.25(b)) under provisions of the Act of May 29, 1884, the Act of February 2, 1903, and the Act of March 3, 1905, and amendments thereof, and the Act of July 2, 1962 (secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f) and delegations of authority thereunder (37 FR 28464, 28477; 38 FR 19141), notice is hereby given that the following stockyards and slaughtering establishments are specifically approved under said regulations as indicated below:

SPECIFICALLY APPROVED SLAUGHTERING ESTABLISHMENTS

The following slaughtering establishments preceded by an asterisk are specifically approved for the purposes of §§ 78.7, 78.8, and 78.12a, of Title 9, Code of Federal Regulations, concerning brucellosis reactors, exposed cattle and cattle from quarantined areas, and for the purposes of § 78.11 of said Title 9, concerning cattle from herds of unknown status. The following slaughtering establishments not preceded by an asterisk are specifically approved for the purposes of § 78.11 only:

ARKANSAS	
*Purcell Packing Co.	Paragould.
IDAHO	
*Bledsoe Packing Co.	Rupert.
*Bryant Packing Co.	Burley.
*Hubbard Packing Co.	Preston.
*Idaho Falls Meat, Inc.	Idaho Falls.
*Jones Custom Meats	Rigby.
*Peoples Quality Pack.	Rupert.
*Tri "B" Meat Co.	Idaho Falls.
LOUISIANA	
*Austin Packing Co.	Houma.
*Crawford Slaughter House.	Covington.
*H. O. Berry Packing Co.	Bastop.
*J. W. Strother	Oakdale.
*L. A. Frey & Son, Inc.	Lafayette.
*Micelle's Meat Packer.	Lake Charles.
*Millwood Packing Co.	Baton Rouge.
*North Louisiana Packing Co.	Sarepta.
*Ruston Processing Plant, Inc.	Ruston.
*Shreveport Packing Co.	Shreveport.
*Thompson Packers	Satsuma.
* * * * *	
MICHIGAN	
*Houghton Beef Packers.	Ionia.
OHIO	
*Routh Packing Co., Inc.	Tiffin.
OKLAHOMA	
*Arctic Locker Plant	Davis.
*Bauer & Son Slaughterhouse	Sand Springs.
*Clinton Packing Co.	Clinton.
*Davis Packing Plant	Stigler.
*Fairfax Packing Co.	Fairfax.
*Holder Locker Plant	Elk City.
*Red Steer Processing Plant	Calumet.
*W. R. Meat Co.	Sulphur.
SOUTH CAROLINA	
*South Carolina Dept. of Corrections	Columbia.
TEXAS	
*Auge Packing Co.	San Antonio.
WEST VIRGINIA	
*Edwards Custom Meats.	Gallipolis.
*Rolfe Custom Slaughtering	Ona.

The following slaughtering establishments are deleted from the list specifically approved to handle interstate shipments of cattle.

ARKANSAS	
*Carroll Packing Co.	Paragould.
IDAHO	
*Idaho Falls Meat Co.	Idaho Falls.
SOUTH CAROLINA	
Greenwood Livestock Market, Inc.	Greenwood.
Taylor Stockyards, John C.	Anderson.

SPECIFICALLY APPROVED STOCKYARDS

The following stockyards preceded by an asterisk are specifically approved for the purposes of §§ 78.7, 78.8, 78.12a, Title 9, Code of Federal Regulations, concerning brucellosis reactors, exposed cattle and cattle from quarantined areas, and for the purposes of §§ 78.9, 78.10 and 78.11 of said Title 9, concerning cattle not known to be affected with brucellosis, cattle from qualified herds, and cattle from herds of unknown status. The following stockyards not preceded by an asterisk are specifically approved for the purposes of §§ 78.9, 78.10 and 78.11 only:

ALABAMA	
*Clarke County Livestock Cooperative.	Grove Hill.
*Hamilton Stockyard, Inc.	Hamilton.
COLORADO	
*Brush Livestock of Colorado, Inc.	Brush.
CONNECTICUT	
Middlesex Livestock Auction.	Durham.
North Franklin Commission Sales.	N. Franklin.
GEORGIA	
*Seminole Livestock, Inc.	Donalsonville.
*Wayne County Stockyard.	Jesup.
IDAHO	
*Burley Livestock Commission Yards, Inc.	Burley.
*Salmon River Livestock Market.	Salmon.
ILLINOIS	
*Danville Livestock Commission Co.	Danville.
*Illinois Auction Commission Co.	Paris.
*St. Louis National Stockyards Co.	National Stockyards.
INDIANA	
*Indianapolis Livestock Market.	Indianapolis.
*Owen & Monroe Company Feeder.	Gasport.
*Rochester Sale Barn	Rochester.
*Star Sale Barn	Greenburg.
IOWA	
Aplington Livestock Sales Co., Inc.	Aplington.
Woodbury County Livestock Auction.	Lawton.
Washington Livestock Auction, Inc.	Washington.
KANSAS	
*Hill City Sale Barn	Hill City.
*St. Francis Livestock Sales Co.	St. Francis.
KENTUCKY	
*Graves County Livestock, Inc.	Mayfield.
*Green County Stockyards.	Greensburg.
*Horse Cave Stockyards.	Horse Cave.
*John M. Riley Livestock Market.	Mayfield.
*Paintsville Livestock Market.	Paintsville.
*Russell County Stockyards.	Russell Springs.

MASSACHUSETTS	
Farmer's Live Animal Market Exchange, Inc. (FLAME).	Littleton.
Michelson's Livestock Commission Auction, Inc.	South Easton.
Northampton Coop Auction Market.	Whately.
MISSISSIPPI	
*Fairchild Livestock Sales, Inc.	Hazlehurst.
*Mid-Mississippi Livestock Co.	Canton.
*Prairie Livestock, Inc.	West Point.
MISSOURI	
*Boonville Livestock Auction.	Boonville.
MFA Livestock Association, Inc.	Humansville.
*Linn County Auction, Inc.	Brookfield.
NEBRASKA	
*Holdrege Livestock Commission Co.	Holdrege.
*Nebraska Livestock Market, Inc.	Franklin.
*Platte Valley Livestock Auction.	Kearney.
NORTH CAROLINA	
J & P Livestock Co., Inc.	Fairmont.
Robeson Livestock Co., Inc.	Rowland.
NORTH DAKOTA	
*Penfield Auction Yards.	Bowman.
*Stockmen's Livestock Exchange, Inc.	Dickinson.
OKLAHOMA	
*Ardmore Livestock Auction.	Ardmore.
SOUTH CAROLINA	
Greenwood Livestock Market, Inc.	Greenwood.
Neeses Stockyards	Neeses.
Taylor Stockyards, John C.	Anderson.
TENNESSEE	
*Gamaliel Kentucky Livestock Auction, Inc. (Market located in Tennessee).	Gamaliel, Ky.
WISCONSIN	
*Midwest Livestock Producers	Ettrich.

The following livestock markets are deleted from the list specifically approved to handle interstate shipments of cattle.

COLORADO	
*Brush Livestock Commission Co.	Brush.
IDAHO	
*Bledsoe Packing Co.	Rupert.
*Bryant Packing Co.	Burley.
*Hubbard Packing Co.	Preston.
*Idaho Falls Meat, Inc.	Idaho Falls.
*Jones Custom Meats.	Rigby.
*Peoples Quality Pack.	Rupert.
IOWA	
Aplington Livestock Auction, Inc.	Aplington.
Clear Lake Auction	Clear Lake.
Washington Livestock Auction Market, Inc.	Washington.
KANSAS	
*Moline Auction Co.	Moline.
KENTUCKY	
*Gamaliel Kentucky Livestock Auction, Inc.	Gamaliel.
Graves County Livestock, Inc.	Mayfield.
Green County Stockyards.	Greensburg.
Horse Cave Stockyards.	Horse Cave.
*Murray Livestock Company, Inc.	Murray.
Paintsville Livestock Market.	Paintsville.
Russell County Stockyards.	Russell Springs.
MASSACHUSETTS	
*Farmer's Live Animal Market Exchange, Inc. (FLAME).	Littleton.
*Michelson's Livestock Commission Auction, Inc.	South Easton.
*Northampton Coop Auction Market.	Whately.
MISSISSIPPI	
*Corinth Livestock, Inc.	Corinth.
*Liberty Livestock	Liberty.
*Mid-Mississippi Livestock, Inc.	Canton.
MISSOURI	
*Callaway Stock Sales Co.	Fulton.
Linn County Auction, Inc.	Brookfield.
NEBRASKA	
*Alliance Livestock Auction Co.	Alliance.
*Franklin Livestock Market.	Franklin.
*Holdrege Livestock Market.	Holdrege.
*Producers Platte Valley Livestock Auction.	Kearney.
NORTH DAKOTA	
*Schnell's Livestock Market, Inc.	Dickinson.
OKLAHOMA	
*Ardmore Livestock Auction, Inc.	Ardmore.
SOUTH CAROLINA	
*South Carolina Dept. of Corrections.	Columbia.
TEXAS	
*Dalhart Auction Co., Inc.	Dalhart.

Effective date. The foregoing notice shall become effective February 4, 1977.

This action imposes certain restrictions necessary to prevent the spread of brucellosis and relieves certain restrictions presently imposed. The action should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Therefore, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this action are impracticable, unnecessary and contrary to the public interest, and good cause is found for making this action effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, DC, this 31st 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.77-3516 Filed 2-3-77;8:45 am]

[PPQ 639]

SOIL SAMPLES

List of Approved Laboratories for Receipt of Certain Soil Samples

Correction

In FR Doc. 76-37689 appearing at page 56347 in the issue for Tuesday, December 28, 1976 make the following changes:

1. On page 56347, in the second column, just before the letter "C", add "Burton, Joe C., Milwaukee, WI * (10-30-77)

2. On page 56347, in the second column, under alphabet "C", the 21st entry should read "Campbell Institute for Agricultural Research, Riverton, NJ * (6-30-79).

3. On page 56348 in the second column under alphabet "G", the third entry should read "GX Laboratories, Inc., Golden, CO * (6-30-77)

Forest Service

BIG GAME HABITAT IMPROVEMENT BURNING OF SERAL BRUSHFIELDS IN THE CLEARWATER, IDAHO PANHANDLE, AND NEZPERCE NATIONAL FORESTS

Notice of Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Big Game Habitat Improvement Burning of Seral Brushfields in the Clearwater, Idaho Panhandle, and Nezperce National Forests, Forest Service Report Number USDA-FS-R1-DES-Adm. R1-77-4.

The environmental statement concerns a proposed resource use Big Game Habitat Improvement.

This draft environmental statement was transmitted to CEQ on January 25, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, South Agriculture Bldg., room 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20250.

USDA Forest Service, Northern Region, Federal Building, room 3077, Missoula, Mont. 59801.

USDA Forest Service, Clearwater National Forest, Route 4, Ahsahka Road, Orofino, Idaho 83544.

USDA Forest Service, Idaho Panhandle National Forests, P.O. Box 310, Coeur d'Alene, Idaho 83814.
USDA Forest Service, Nezperce National Forest, 319 E. Main, Grangeville, Idaho 83530.

A limited number of single copies are available upon request to Forest Supervisor Kenneth P. Norman, Clearwater National Forest, Rt. 4, Ahsahka Road, Orofino, ID 83544.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce Environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Kenneth P. Norman, Clearwater National Forest, Rt. 4, Ahsahka Road, Orofino, ID 83544. Comments must be received by February 25, 1977 in order to be considered in the preparation of the final environmental statement.

Dated: January 25, 1977.

KENNETH P. NORMAN,
Forest Supervisor, Clearwater National Forest, Northern Region.

[FR Doc.77-3461 Filed 2-3-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 7-4910—7-4914]

BOSTON STOCK EXCHANGE

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

JANUARY 28, 1977.

In the matter of applications of the Boston Stock Exchange, for unlisted trading privileges in certain securities, Securities Exchange Act of 1934.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

American Medical International Inc., File No. 7-4910, common stock—$1.00 par value.
Development Corporation of America, File No. 7-4911, common stock—$0.10 par value.
Texas Eastern Corporation, File No. 7-4912, common stock—$3.50 par value.
United Energy Resources, Inc., File No. 7-4913, common stock—$1.00 par value.
Utah Power and Light Company, File No. 7-4914, common stock—$12.80 par value.

Upon receipt of a request, on or before February 13, 1977 from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular applications, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-3450 Filed 2-3-77;8:45 am]

[File No. 7-4909]

BOSTON STOCK EXCHANGE

Application for Unlisted Trading Privileges and of Opportunity for Hearing

JANUARY 28, 1977.

In the matter of an application of Boston Stock Exchange, for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Bell Canada, File No. 7-4909, common stock—$25 par value.

Upon receipt of a request, on or before February 13, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-3451 Filed 2-3-77;8:45 am]

BOSTON STOCK EXCHANGE

Application for Unlisted Trading Privileges and of Opportunity for Hearing

JANUARY 28, 1977.

In the matter of an application of Boston Stock Exchange, for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Varian Associates, Inc., File No. 7-4908, common stock—$1.00 par value.

Upon receipt of a request, on or before February 13, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-3449 Filed 2-3-77;8:45 am]

[Release No. 34-13214; File No. SR-BSPS 77-2]

BRADFORD SECURITIES PROCESSING SERVICES, INC.

Self-Regulatory Organizations; Proposed Rule Change

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 January 3, 1977, the above mentioned self-regulatory or-

ganization filed with the Securities and Exchange Commission a proposed rule change as follows:

The proposed rule change is a modest fee increase to the majority of our customers which we believe will average firmwide $.50 per transaction. In addition, we will be billing for forms usage at $.10 per form as shipped to our customer. Fees for volume customers will be increased based on the individually negotiated fees presently in effect.

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the rule change would be to increase prices to offset the inflationary expense increases we have experienced over the past two years since our last general price increase.

The raising of fees still maintains our basic billing structure among our participants.

To date, we have received verbal comments from two customers indicating they understand the need for a fee increase but are questioning the amount of it in view of the unique nature of their business.

BSPS is of the opinion that this increase maintains our competitive position with other registered clearing agents and competing banks.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six 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 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 February 25, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 28, 1977.

[FR Doc.77-3454 Filed 2-3-77;8:45 am]

[Release No. 34-13215; File No. SR-DTC-77-1]

DEPOSITORY TRUST CO.

Self-Regulatory Organizations; Proposed Rule Change

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 January 6, 1977, 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

The proposed rule change permits Participants of The Depository Trust Company (DTC) to maintain on deposit with DTC securities subject to repayment options. Under the proposed procedures, Participants will be able to take advantage of such options without withdrawing the certificates evidencing such securities from the system. The proposed rule change is attached as Exhibit 2 to DTC's filing on Form 19b-4A, File No. SR-DTC-77-1.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to permit DTC's Participants to take advantage of "repayment" options through DTC. Repayment options are available to holders of certain debt securities, such as floating rate notes. Such holders may elect to redeem debt securities on specified repayment dates. The DTC repayment procedure enables Participants to exercise repayment options on certain securities without withdrawing them from the system.

The proposed rule change relates to DTC's carrying out the purposes of section 17A of the Securities Exchange Act of 1934 (the Act) by increasing DTC's capacity to facilitate the prompt and accurate clearance and settlement of securities transactions in that the proposed rule change will encourage immobilization of certificates evidencing securities subject to repayment options.

Comments regarding the proposed repayment procedure were solicited from DTC Participants by articles in DTC's Newsletters of February 1976, May 1976, August 1976, September/October 1976, and November 1976. Draft procedures for the proposed service, similar to the procedures set forth in Exhibit 2 to DTC's filing on Form 19b-4A, File No. SR-DTC-77-1, were sent to Participants who asked to review draft procedures. No written comments in response to the Newsletter articles were received.

The Depository Trust Company believes that the proposed rule change will cause no burden on competition.

On or before March 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 above-mentioned self-regulatory organization. All submissions should be submitted on or before February 25, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 28, 1977.

[FR Doc.77-3455 Filed 2-3-77;8:45 am]

[File No. 7-4907]

PHILADELPHIA STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

JANUARY 28, 1976.

In the matter of an application of Philadelphia Stock Exchange, Inc., for unlisted trading privileges in a certain security, Securities Exchange Act of 1934.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Kewanee Industries, Inc., File No. 7-4907, ordinary voting common stock—$5 par value.

Upon receipt of a request, on or before February 13, 1977 from any interested person, the Commission will determine

whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which that person is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 209 not later than the date specified. If no request for a hearing with respect to the particular application is made, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-3453 Filed 2-3-77;8:45 am]

[Release No. 34-13216 File Nos. SR-MCC-76-5 and SR-MSTC-76-14]

MIDWEST CLEARING CORP. AND MIDWEST SECURITIES TRUST CO.

Self-Regulatory Organizations; Proposed Rule Change

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 28, 1976, the above-mentioned self-regulatory organizations filed with the Securities and Exchange Commission proposed rule changes as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The Midwest Securities Trust Company (MSTC) Pledge Loan Program enables a participating broker-dealer to pledge depository-held securities as loan collateral with a Pledgee Bank. A broker-dealer participant may utilize securities on deposit with MSTC as collateral for a bank loan without having to physically deliver the stock to the Pledgee Bank. Pledging is accompanied by book-entry movement without the securities leaving the depository.

The Pledge Loan Program operates under the provisions of the Illinois Uniform Commercial Code (section 8-320), which provides for a statutory lien on the securities in favor of the traditional possessory lien. Book-entry pledge of securities in a central certificate depository is identical to the Pledgee's taking physical delivery of securities. The Pledgee Bank has the same control and claim to the certificates as if the Pledgee had maintained physical possession of the pledged securities in his vault.

The broker-dealer participant, after making the customary loan arrangements with the Pledgee Bank, submits a Pledge of Collateral Form. The broker-dealer pledge journals securities from the broker's Depository Free Position to a Pledge Position. Securities are pledged on the records of the MSTC for the account of the Pledge Bank. An authorized copy of the Pledge of Collateral Form is forwarded to the Pledgee Bank as confirmation that MSTC has effected the appropriate book-entry movements.

All securities once pledged are subsequently subject to the instructions of the Pledgee Bank for the duration of the pledge. Releases may be made only upon approval by the Pledgee Bank.

MIDWEST PLEDGE LOAN PROGRAM SCHEDULE OF CHARGES

Account charges.[1] Bank Pledgee and Limited Depository Account (symbol maintenance fee), $100 per month.

Activity of charges.[2] (1) Pledge of Collateral movement from pledgor's regular account to bank's pledgee account; $.35 per position to both pledgee bank and pledgor.

(2) Release of Collateral movement from bank's pledgee account to pledgor's regular account; $.35 per position to both pledgee bank and pledgor.

(3) Demand for Pledged Securities movement from bank's pledgee account to bank's limited depository account; No Charge.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes is as follows:

The purpose of the proposed rule changes is to establish the Pledge Loan Program, which is a fully automated long-term collateral loan program, and to establish the Program's attendant fees. Through the pledge loan program participants can negotiate a loan agreement with a participating bank and instruct Midwest Clearing Corporation or Midwest Securities Trust Company to move shares via bookkeeping movement to the Pledged Position of Midwest Securities Trust Company.

The MSTC Pledge Loan Program enables participating firms to take full advantage of a depository for immobilization of all certificates, which is a step toward the removal of impediments to and the perfection of the mechanism of a national system for the prompt and accurate clearance and settlement of securities. The proposed rule changes represent an equitable allocation of reasonable fees among participants.

Comments have neither been solicited nor received.

The Midwest Clearing Corporation and the Midwest Securities Trust Company believe that no burden has been placed on competition.

On or before March 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 organizations consent, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes 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 filings 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 filings will also be available for inspection and copying at the principal offices of the above-mentioned self-regulatory organizations. All submissions should refer to the file numbers referenced in the caption above and should be submitted on or before February 25, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 28, 1977.

[FR Doc.77-3456 Filed 2-3-77;8:45 am]

[Release No. 34-13217; File No. SR-OCC-1976-11]

OPTIONS CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Change

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 reflects the fact that Clearing Members are entitled to reimbursement of margin on exercised option contracts where settlement has been made through correspondent clearing corporations on the date following the date on which settlement is made with such clearing corporations.

STATEMENT OF BASIS AND PURPOSE

The amendment to Rule 602 effects technical changes in that rule to delete reference to an obsolete rule and to reflect the fact that under the rule changes approved by the Commission and contained in File No. SR-OCC-1976-7, set-

[1] For a bank with a regular Midwest Clearing Corporation/Midwest Securities Trust Company account, the $100 per month would be in addition to the $140 per month regular participant account charges and the $100 per month would not count against the regular account's $250 per month minimum account billing for all services.

[2] For a bank with a regular Midwest Clearing Corporation/Midwest Securities Trust Company account, activity charges would count towards the $250 per month minimum account billing for all services.

tlement with respect to exercised option contracts is made through more than one correspondent clearing corporation.

The proposed rule change relates to the protection of investors and the public interest by insuring that clearing members are entitled to reimbursement of margin on exercised options contracts after settlement has been made.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change would impose any burden on competition.

On or before March 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 six 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 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 February 25, 1977.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 28, 1977.

[FR Doc.77-3457 Filed 2-3-77;8:45 am]

[SR-PSE-76-39]

PACIFIC STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

On December 22, 1976, the Pacific Stock Exchange, Inc. ("PSE"), 606 South Hill Street, Los Angeles, California 90014, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to provide for the expansion of the PSE Board from thirteen members to fifteen members.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13117, December 29, 1976) and by publication in the FEDERAL REGISTER (41 FR 1553, January 7, 1977).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6, and the rules and regulations thereunder.

Further, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. These amendments make the PSE Constitution consistent with that portion of section 6(b)(3) of the Act which requires that rules of registered national securities exchanges "provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer."

It is therefore, ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on December 22, 1976, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-3452 Filed 2-3-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30309]

ATLANTA-CHARLESTON COMPETITIVE NONSTOP CASE

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 19, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. before Administrative Law Judge Stephen J. Gross.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before April 1, 1977, and the other parties on or before April 11, 1977. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., January 28, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-3645 Filed 2-3-77;8:45 am]

[Order 77-1-164; Docket No. 30359]

FRONTIER AIRLINES, INC.

Order Granting Emergency Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 31st day of January, 1977.

Frontier Airlines, Inc. (Frontier) by application filed January 17, 1977, in Docket 30359, requests an emergency exemption from the requirements of Order 74-12-103[1] insofar as that order would otherwise prevent it from establishing fare levels between Fayetteville and Fort Smith, Arkansas, on the one hand, and Dallas/Fort Worth, Texas on the other hand, which would match those charged by Scheduled Skyways, Inc., (SSI) a commuter air carrier now operating in these markets pursuant to Part 298 of the Board's Economic Regulations.

In support of its application Frontier states that it is the only certificated air carrier providing service between Fayetteville/Fort Smith and Dallas/Fort Worth; and that on December 1, 1976, SSI inaugurated service in these markets at fares approximately 92 percent of the then minimum lawful formula fares for certificated carriers, pursuant to Orders 74-12-109 and 76-8-52.[2] Furthermore, the carrier alleges that if it is required to charge the minimum lawful Phase 9 coach fares in these two markets it will be placed at a distinct competitive disadvantage and be unable to effectively compete with SSI; that the Board has previously granted an exemption[3] from the uniform pricing formula imposed by Phase 9, for the purpose of permitting carriers opting to take advantage of a general fare increase to remain competitive with carriers declining to adopt such increases; and that the Board has similarly held, in the Interstate and Intrastate Fares in California and Texas Markets,[4] that fares of certificated carriers may be lowered below Phase 9 minima to the extent necessary to meet the competition from intrastate carriers. Finally, Frontier argues that the policy established by the Board with respect to matching fares of intrastate carriers is equally applicable to the situation with which the carrier is confronted in this instance. As an added matter the carrier announces its intention, in the event the instant exemption request is granted, of requesting short-notice permission to file matching tariffs in the two markets at issue for effectiveness on February, 1, 1976.[5]

No answers have been filed in opposition to Frontier's application.

Upon review of the statements contained in the application and all other

[1] December 27, 1974; Phase 9 of the Domestic Passenger-Fare Investigation (DPFI).

[2] December 27, 1974, and August 10, 1976. When Frontier adopts the recently approved two-percent general fare increase (Order 77-1-93, January 14, 1977) on February 1, 1977, the SSI fares (if they remain at the levels alleged in the instant application) will drop to 91 and 90 percent of Frontier's lawful minimum fares between Fayetteville and Dallas and Fort Smith and Dallas, respectively.

[3] Order 76-2-98, February 25, 1976. Cf. also Order 77-1-92, January 14, 1977.

[4] Docket 24779, Order 76-2-23.

[5] We note this is the same day Frontier's original tariff, filed on customary notice, would have implemented matching fares. As Frontier notes, that tariff was rejected (Rejection Notice No. B-5189) for lack of conformity with *Phase 9* requirements.

relevant matters we find that enforcement of the requirements of Phase 9 of the DPFI, insofar as they would prevent Frontier from matching coach fares offered by SSI between Fayetteville/Fort Smith and Dallas/Fort Worth would be an undue burden on the carrier by reason of the limited extent of and unusual circumstances affecting its operations and would not be in the public interest.

We believe that granting the requested exemption authority comports with our long-standing policies according the maximum possible pricing flexibility to local service carriers and permitting certificated carriers, generally, to match genuinely competitive fares. We would emphasize that this exemption in no way represents a departure from our basic commitment to an overall uniform fare structure and formula. The instant case has, however, brought to light an anomaly in the application of the uniform-formula principle which the exemption will correct. Furthermore, in light of Frontier's original attempt to file matching tariffs—made permissible herein—on customary notice, we will also grant the carrier short-notice permission to refile such tariffs for effectiveness on February 1, 1977.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. Frontier Airlines, Inc. be, and it hereby is exempted from the requirements of Order 74-12-109 to the extent necessary to permit it to file tariffs containing fares between Fayetteville and Fort Smith, Arkansas, on the one hand and Dallas/Fort Worth, Texas on the other, matching the published coach fares of Scheduled Skyways, Inc. in those two markets;

2. To the extent not granted herein, the application in Docket 30359 be, and it hereby is denied; and

3. A copy of this order be served upon all U.S. certificated air carrier parties in Phase 9 of the Domestic Passenger-Fare Investigation* and Scheduled Skyways, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-3649 Filed 2-3-77;8:45 am]

[Docket 29123; Agreement C.A.B. 26318; Order 77-2-6]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreement Relating to Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of February, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the Resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above C.A.B. agreement number.

The agreement would increase fares to and from Turkey by $1 and $2 for one-way and round-trip fares, respectively, to reflect a recent decision of the Turkish Government to increase the airport passenger service charge applicable to all embarking passengers.

Upon consideration of the agreement and all other relevant matters, the Board has determined to disapprove the agreement. Documentation with the agreement indicates that the airport passenger service charge in Turkey is applicable to all embarking passengers; hence, the fee is levied only on passengers departing Turkey. As the Board has previously noted (Order 77-1-48), we perceive no rationale for permitting the carriers to increase round-trip fares by twice the increase in one-way fares since, in either case, the passenger would only be required to pay a single embarkation tax to the Turkish authorities. Neither is it clear why a one-way passenger inbound to Turkey should pay an additional $1 to "offset" an embarkation fee which would not be applicable to his journey. Finally, we see no reason why passengers who stopover in Turkey en route to other destinations should not be required to pay any additional amount. Thus, the proposed fare increases appear to bear little relationship to the actual incidence of the tax. We have no objection to carriers' offsetting the revenue loss created by the tax increase. However, it should be done in a more equitable manner.

Pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204(a) and 412 thereof, it is found that Resolutions 200, JT12, JT23, JT123 (Mail 76) 005L, incorporated in Agreement C.A.B. 26318, are adverse to the public interest and in violation of the Act;

Accordingly, *it is ordered*, That:

Agreement C.A.B. 26318 be and hereby is disapproved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-3650 Filed 2-3-77;8:45 am]

[Docket 26354]

NORTH CENTRAL AIRLINES, INC.

Hearing

In the matter of certificate application (Milwaukee/Duluth/Superior - Winnipeg).

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on March 15, 1977, at 9:30 a.m. in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report and supplemental prehearing conference report served November 23 and December 10, 1976, respectively, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 31, 1977.

KATHERINE A. KENT,
Administrative Law Judge.

[FR Doc.77-3648 Filed 2-3-77;8:45 am]

[Docket 20421, etc.]

OKLAHOMA-DENVER-SOUTHEAST POINTS INVESTIGATION

Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviaion Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on February 24, 1977, at 10.00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C. Argument will be limited to the issues set forth in Order 77-1-155, adopted January 28, 1977.

Dated at Washington, D.C., January 31, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-3646 Filed 2-3-77;8:45 am]

[Docket 29295]

UNITED STATES-LATIN AMERICA ALL-CARGO SERVICE INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on March 21, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge William A. Kane, Jr.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the prehearing conference report served on October 27, 1976, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., January 31, 1977.

WILLIAM A. KANE, JR.,
Administrative Law Judge.

[FR Doc.77-3647 Filed 2-3-77;8:45 am]

* Order 74-12-109, December 27, 1974.

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

Results; Hueytown, Ala., et al.

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 January 1, 1977, and January 31, 1977.

Dated: January 31, 1977.

ROBERT L. HAGAN,
Acting Director,
Bureau of the Census.

State/place or special area	County	Date of census	Population
Alabama: Hueytown, city	Jefferson	Nov. 2	12,127
Illinois:			
Bloomingdale, village	DuPage	Oct. 27	9,936
Princeton, city	Bureau	Oct. 14	7,025
Indiana: Goshen, city	Elkhart	Nov. 9	18,709
Iowa:			
Atlantic, city	Cass	Nov. 8	7,324
Atalissa, city	Muscatine	do.	365
Michigan: Davison, city	Genesee	Oct. 28	6,193

[FR Doc.77-3388 Filed 2-3-77;8:45 am]

Domestic and International Business Administration

ENVIRONMENTAL PROTECTION AGENCY

Application for Duty-Free Entry of Scientific Article

The Environmental Protection Agency has withdrawn its application for duty-free entry of a Plasma Laser Probe Attachment (Docket No. 76–00296). Accordingly, further administrative proceedings will not be taken by the Department of Commerce with respect to this application.

(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.77-3740 Filed 2-3-77;8:45 am]

UNIVERSITY OF MINNESOTA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Sta. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76–00521. Applicant: University of Minnesota, 380 Lyson Laboratories, Minneapolis, Minnesota 55455. Article: Blood pressure monitor. Manufacturer: Ueda Kosan K.K., Japan. Intended use of article: The article is intended to be used for research on the differences in stroke incidence, reflected in rat blood pressure.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is to be used in a collaborative study involving distant institutions. Identical instruments and procedures will be used to avoid the possibility that subtle differences in technique might equivocate the comparibility of results. In this connection, the Department of Health, Education, and Welfare (HEW) advises in its memorandum dated December 20, 1976 that closely identical instruments are pertinent to the applicant's intended use. HEW also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(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.77-3738 Filed 2-3-77;8:45 am]

UNIVERSITY OF ROCHESTER

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76–00518. Applicant: The University of Rochester—Strong Memorial Hospital, Department Ob-Gyn, 601 Elmwood Avenue, Rochester, New York 14642. Article: Leisegang stereo camera colposcope Model IIIB, and Teaching Tube accessory. Manufacturer: Leisegang KG, West Germany. Intended use of article: The article is intended to be used for studies of cancer of the cervix and vagina by providing earlier diagnosis by directed biopsy thereby reducing the need for conization and hospitalization. In addition, the article will be used for teaching of medical students in Gyn Oncology.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket number 76–00312 which was denied without prejudice to resubmission on June 1, 1976 for informational deficiencies. The foreign article is equipped with a 35 millimeter stereo camera. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated December 20, 1976 that the capability described above is pertinent to the applicant's intended uses. HEW also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(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.77-3739 Filed 2-3-77;8:45 am]

Economic Development Administration

TENSOR CORP.

Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Tensor Corporation, 333 Stanley Avenue, Brooklyn, New York 11207, a producer of high intensity lamps and metal tennis racquets, was accepted for filing on January 26, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93–618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States

of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, Department of Commerce, Washington, D.C. 20230, no later than the close of business on February 14, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-3607 Filed 2-3-77;8:45 am]

PLANT HANGER INDUSTRY

Study of Producing Firms

SUMMARY

The Department of Commerce has conducted a study of the firms in the plant hanger industry pursuant to section 264 of the Trade Act of 1974. Such a study is to be made and its results reported to the President whenever the International Trade Commission makes an import relief investigation of an industry under section 201(b) of the Act.

In its report to the President of December 22, 1976, the Commission by a 6–to–0 vote concluded that increased imports of plant hangers are not a substantial cause of serious injury or threat thereof to the domestic industry producing like or directly competitive products.

A device for the suspension of a potted plant or planter, plant hangers are usually made out of textile fiber products (macrame), although they may also be made out of wood, shells, leather, plastic, metal, or other materials.

Two principal categories of producers are recognized in the domestic plant hanger industry: (1) Manufacturers, and (2) hobbyists and craftspeople. The first category primarily consists of firms with production facilities, warehousing space, employees engaged directly in production, and the capacity to produce in volume. The Commission identified twenty-six firms, with annual sales ranging from less than fifty thousand dollars to more than one million dollars, which collectively account for the bulk of the plant hangers manufactured domestically. The second category is composed of thousands of hobbyists and craftspeople producing plant hangers for their own use or for friends and relatives, and selling them directly to consumers or to small retailers.

The plant hanger industry is relatively new, with the majority of the firms having been engaged in production for less than two years. Until 1972, the industry consisted primarily of craftspeople, hobbyists, and proprietors working in basements and garages of homes. Since 1972, annual shipments by producing companies in this country have increased dramatically. Annual imports of plant hangers have also increased significantly and now account for more than 90 percent of apparent domestic consumption. The leading foreign suppliers of plant hangers in 1975 were the Republic of China, the Philippines, and Mexico.

To be certified eligible to apply for trade adjustment assistance, a firm must petition the Department of Commerce and demonstrate that increased imports of articles like or directly competitive with those produced by the firm contributed importantly to declines in sales or production, or both, and to the separation, or threat of separation, of a significant number or proportion of the firm's workers. A trade-impacted producing firm may petition the Department for certification at any time regardless of a prospective Commission finding or its results. For firms in the plant hanger industry that are considering petitioning for certification, the first requirement of the qualifying criteria has been met, since U.S. imports of plant hangers have increased dramatically in recent years.

As of the date of this report, only one firm in the plant hanger industry has petitioned seeking certification of eligibility to apply for trade adjustment assistance. That firm has been certified and is currently developing its adjustment proposal.

Of the remaining plant hanger producers identified by the Commission for which there are data available for 1975 and 1976, six appear to have an absolute decline in employment and either total sales or total production. However, absent an investigation of each individual firm, we cannot state definitively that imports contributed importantly to those declines. Moreover, even if these six firms were to meet all of the criteria for certification, we would not be able to say that they are likely to be certified eligible until they have actually petitioned the Department.

Very few, if any, of the thousands of craftspeople could be considered as firms for the purpose of petitioning for certification, and not many would be able to demonstrate decreasing employment if producing plant hangers is only a spare time occupation.

Although in its investigation the Commission distinguished hanging planters from plant hangers, and did not include them in its finding, the Commission did indicate that there are hanging planters which could be considered directly competitive with plant hangers.

There are about thirty firms engaged in the production of hanging planters. However, of those for which data are available for 1975 and 1976, none appear to meet the criteria for certification under the Trade Act. In most instances the firms did not experience an absolute decline in total employment and either total sales or total production. In those cases where declines did occur, hanging planters were such an insignificant percentage of total sales and production that it is highly unlikely that imports of plant hangers contributed importantly to the firm's declines.

Under the program of trade adjustment assistance for firms authorized by the Trade Act, a certified firm may apply for adjustment assistance to carry out its recovery plan. However, the fact that a firm is certified does not imply that such assistance will be furnished. That decision will depend upon whether the firm's adjustment proposal meets all of the statutory criteria. Adjustment assistance may consist of financial assistance, technical assistance, or both. Financial assistance, in the form of direct loans or loan guarantees, may be used for the acquisition, construction, installation, modernization, expansion or conversion of fixed assets, or for working capital necessary for a firm to implement its adjustment plan. Technical assistance may be used for management and operational assistance, feasibility studies and related research to aid in developing and implementing a firm's recovery plan.

Firms may also benefit indirectly from financial assistance available to trade impacted communities under provisions of the Trade Act in a manner similar to public works, business development and Title IX programs administered by the Department's Economic Development Administration ("EDA") pursuant to the Public Works and Economic Development Act of 1965, as amended. These other programs of EDA provide two basic types of benefits: (1) Business development loans to assist firms in certain designated places identified on the basis of economic distress such as unemployment or low family income; and (2) loans and grants to states, redevelopment areas and other nonprofit local entities for public works projects and development facilities, as well as for a comprehensive program of adjustment to actual or threatened economic dislocation.

The Small Business Administration ("SBA") administers three programs of potential benefit to firms adversely affected by imports. One is a basic program of business loans; the second is a loan program for local development companies; the third is a management assistance program for small business. Eligibility for SBA business loans is limited to independently owned and operated firms that are not dominant in their field and do not have over 250 average employment. The amount of the guaranteed loan, however, cannot exceed $500,000, and participating and direct loans have even lower limits.

The Farmers Home Administration ("FmHA") of the Department of Agriculture also admiinsters two programs that could assist firms in the plant hanger industry. One is a program of loan guarantees to businesses located in areas other than cities of over 50,000 population. As with EDA business loans, however, these guarantees are not available to firms in industries characterized by long-term overcapacity. FmHA also can

make grants and loans to public bodies, such as local governments and development organizations, in areas other than cities of over 10,000 population. These funds can be used for public works projects, such as utility extensions and access roads, that would benefit industry.

Additional information about the adjustment assistance program and copies of the report Prospects for Adjustment Assistance for Firms in the Plant Hanger Industry, are available from the Office of Public Affairs, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202/967-5113).

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-3608 Filed 2-3-77;8:45 am]

Maritime Administration

[Docket S-493, Sub-3]

AMERICAN PRESIDENT LINES, INC. Amended Application

Notice is hereby given that American President Lines, Ltd. (APL), a Delaware Corporation, has filed an application of December 8, 1976, to amend its application of December 18, 1975, as amended, which requested that its current Operating-Differential Subsidy Agreement, or successive Agreement, be amended in order to conduct a proposed Eastbound Round-the-World (RTWE) service, on schedules coordinated with its presently existing Westbound Round-the-World service (RTWW), as revised. Notices regarding APL's application of December 18, 1975, as amended by letters of March 22, 1976, and April 1, 1976, were published in the FEDERAL RETISTER as Docket No. S-493 on March 4, 1976 (41 FR 9411), and as Docket No. S-493, Sub-1 and Docket No. S-493, Sub-2, both on May 13, 1976 (41 FR 19743).

APL proposes to modify the service pattern of its RTWW service and the proposed RTWE service as follows:

The applicant proposes to serve the trade areas covered by its present westbound Round-the-World service and by its proposed eastbound Round-the-World service by services which move cargo westbound from U.S. Pacific ports and eastbound from U.S. Atlantic ports, and by reliance upon miniland-bridge overland service to move cargo between U.S. Atlantic ports and those in the Far East. The present plan for performing the ocean services is to link together at relay points three round-voyage containership services, each of which would utilize equipment of a size and type appropriate to the trade and ports within its circuit.

The ocean links in this coverage would upon inauguration of the service consist of: (1) The two Pacific/Far East weekly services now conducted from California and Pacific Northwest under contracts FMB-50 [now succeeded by MA/MSB-386 effective January 1, 1977] and FMB-76. (2) A fortnightly service between U.S. Atlantic ports, those in the Mediterranean Sea, and those in the Persian Gulf. (3) A fortnightly service extending each of these two services, and linking them together, by relay movements in the Persian Gulf and at Hong Kong.

The Pacific Basin services would, as at present, be conducted with ten of APL's largest containerships, the Atlantic-Persian Gulf service would be conducted by three of our larger containerships, and the Persian Gulf-Hong Kong link would be conducted by three of APL's smaller containerships which also are equipped with the self-sustaining cargo gear required in most of the ports of South Asia.

As to sailings:

The applicant proposes in the aggregate a two-way service eastbound from U.S. Atlantic ports and westbound from U.S. Pacific ports, serving Trade Routes 10, 18, 17, 28 and 29. The applicant requests a minimum of 22 and a maximum of 36 sailings per year in both directions. Upon its inauguration the service would be performed by (1) use of the ten containerships presently employed in applicant's service between U.S. Pacific ports and those in the Far East (2) employment of three containerships on a 16-day frequency, with a 48-day turnaround, serving between U.S. Atlantic ports and those in the Mediterranean and Persian Gulf; and (3) employment of three containerships, also on a 16-day frequency with a 48-day turnaround, linking the other two services in the Persian Gulf and Hong Kong, calling at ports in South and Southeast Asia en route.

A minimum of 22 and a maximum of 36 sailings per annum eastbound from the last U.S. Atlantic port and westbound from the last U.S. Pacific port. If two or more round-voyage services are used to perform this service each shall perform a minimum of 22 and a maximum of 36 sailings per annum from the easternmost and westernmost ports of the separate, linking service. If the Trade Route 29 services of the applicant are used for the carriage of cargo between U.S. Pacific ports and those in the Far East, the sailings minimum and maximum shall be those provided for such Trade Route 29 services.

As to vessels:

The change in service patterns will result in a reduction of one subsidized vessel from the 17 currently in service and of two from those in service before the *President Grant* was lost in September 1976.

APL does not propose any expansion of the area to be served from those areas specified in Docket S-493, Sub-1 and Sub-2.

Interested parties may inspect the application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any party who in response to the March 4, 1976, notice of application of American President Lines, Ltd., (41 FR 9411) or Amended notices of application of May 10, 1976 (41 FR 19743), has filed a petition to intervene in Docket S-493, Sub-1 and Sub-2, will be deemed to have intervened in response to this notice in respect of any issue it might wish to raise in respect to the RTWE and RTWW services.

Any other person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1175), should by close of business on February 11, 1977, notify the Secretary, Maritime Subsidy Board, in writing, in triplicate, and file a petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

Each such additional statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1175), and with as much specificity as possible the facts that the intervenor would undertake to prove at such a hearing.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS).)

Dated: February 1, 1977.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-3699 Filed 2-3-77;8:45 am]

[Docket No. S-540]

ATLANTIC BEAR STEAMSHIP CO. Application

Notice is hereby given that Atlantic Bear Steamship Company has filed an application pursuant to section 805(a) of the Merchant Marine Act, 1936, as amended (the Act), for domestic rights and approvals which are to be related to the services to be covered by a proposed new twenty-year operating-differential subsidy contract, Notice of which was published in the FEDERAL REGISTER of January 13, 1977 (42 F.R. 2712).

Atlantic Bear Steamship Company (ABSCO) is requesting written permission, in the event an operating-differential subsidy agreement is granted to ABSCO, for operations to be conducted under authority of section 805(a) of the Act which ABSCO's parent company, Pacific Far East Line, Inc., now has.

ABSCO requests written permission pursuant to section 805(a) of the Act for Pacific Far East Line's subsidized combination passenger-cargo vessels SS *Mariposa* and SS *Monterey* to carry passengers, their baggage, and accompanying automobiles (a) between California and Hawaii, (b) between any United States ports in connection with cruises authorized pursuant to section 613 of the Act, and (c) between ports in California on regularly scheduled voyages on Pacific Far East Line's subsidized Trade Route 27 service.

ABSCO also requests written permission pursuant to section 805(a) of the Act for its affiliate, American Bear Steamship Company, to own and/or operate one U.S. flag bulk carrier engaged in the transportation of bulk cargoes in domestic intercoastal or coastwise service.

As information, the U.S. flag bulk carrier owned by the affiliate of ABSCO is the SS *American Bear* (ex-*American Wheat*).

Any person, firm, or corporation having interest (within the meaning of section 805(a)) in such application and desiring to be heard on February 11, 1977

issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS.)

Dated February 1, 1977.

By order of the Assistant Secretary for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-3698 Filed 2-3-77;8:45 am]

[Docket No. S-539]

MATHIASEN'S TANKER INDUSTRIES, INC.

Application

Notice is hereby given that Mathiasen's Tanker Industries, Inc. (Mathiasen) has applied for written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, in connection with its application for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire unless extended, on or before December 31, 1977, or upon completion of a voyage(s) then in progress.

Written permission under section 805 (a) was granted by the Assistant Secretary for Maritime Affairs/Maritime Subsidy Board to Mathiasen in connection with this application for Mathiasen and its parent company, the Trinidad Corporation, to operate a total of nine U.S. flag tankers in domestic coastwise and intercoastal service. The previous Notice published in the FEDERAL REGISTER on December 10, 1976, (41 F.R. 54017) and subsequent written permission inadvertently omitted the domestic trade interests of Mr. S. C. Loveland, Jr., a director of Titan Tankers, Inc., an affiliate of Mathiasen. Mr. Loveland is president and principal owner of S. C. Loveland Co., Inc. This company, unrelated to Mathiasen except through Mr. Loveland, is a common carrier, certified by the Interstate Commerce Commission, with rights to operate steamships, barges and towboats, or by towing only, from Eastport, Maine, to Tampa, Florida, with coastwise and all tributaries privileges.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on February 11, 1977 file same with the Secretary, Maritime Administration/Maritime Subsidy Board, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

Dated: January 31, 1977.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.77-3700 Filed 2-3-77;8:45 am]

National Oceanic and Atmospheric Administration

CROSS-UTILIZATION OF INSPECTION PERSONNEL

Agreement With the Agricultural Marketing Service

The National Marine Fisheries Service and the Agricultural Marketing Service have drawn up an agreement which will maximize the use of trained food inspectors of the two agencies by cross-licensing arrangements whereby inspection requests for fishery products or processed fruits and vegetables can be efficiently and effectively fulfilled. The agreement, which sets forth the operational procedures for the cross-utilization of inspection personnel, reads as follows:

Memorandum of Understanding between U.S. Department of Agriculture, Agricultural Marketing Service, Fruits and Vegetable Division; and the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, relative to the Cross-Utilization of Inspection Personnel.

Whereas, the National Marine Fisheries Service (NMFS), is authorized by the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), and the Fish and Wildlife Act of 1956, as amended (16 U.S.C. Sec. 742a–742k) among other things, to (1) develop and advance commercial grade standards for fishery products and better health and sanitation standards in the fishing industry, and (2) furnish inspection, analytical, and grading services, and issue certificates to producers, processors, shippers, receivers, or interested parties; and

Whereas, the Fruit and Vegetable Division (FV Division) is authorized under the Agricultural Marketing Act of 1946, as amended, to execute similar standardization and inspection activities for certain agricultural commodities, and is further authorized by Section 203 of the Act (7 U.S.C. 1622), and regulations promulgated thereunder to perform inspection services for other Federal Agencies; and

Whereas, the respective agencies desire to execute a Memorandum of Understanding which is designed to carry out a mutual interest in providing inspection and certification to industry applicants on a fee-for-service basis in the most efficient and effective manner; and

Whereas, it is desirable to clarify details of administration and fiscal policies between operating echelons of the two agencies under the terms and intent of this Memorandum of Understanding;

Now, therefore, it is mutually agreed by and between the National Marine Fisheries Service and the Fruit and Vegetable Division to work in a cooperative and collaborative manner to maximize the use of trained food inspectors of the two agencies by cross-licensing arrangements whereby requested inspection service for fishery products or processed fruits and vegetables can be accomplished.

To carry out the provisions of this Memorandum of Understanding the two agencies agree to adopt the following operational procedures:

A. FV Division will:

1. When mutually agreeable, provide NMFS with FV inspectors for detail assignments of designated periods of time in establishments operating under NMFS contract in which the volume of pack inspected is predominantly fishery products. Such inspections shall be performed in accordance with instructions, standards, and regulations governing processed fishery products, 50 CFR 260.

2. When mutually agreeable, provide inspection service for fishery products processed in plants where the volume of pack is predominantly fruits, vegetables, or related products. Such inspections shall be performed in accordance with instructions, standards, and regulations governing processed fishery products, 50 CFR 260.

3. When mutually agreeable, provide the food industry with lot-inspection service for fishery products and miscellaneous inspection and consultation services including plant surveys and sanitation evaluations in accordance with the regulations governing the inspection and certification of processed fishery products, 50 CFR 260.

4. Bill the NMFS for the services provided at the rates designated in the addendum attached hereto.

5. Be responsible for time and attendance and related personnel action reports for each FV inspector assigned to perform inspection services for NMFS.

6. Instruct FV assigned inspectors to provide the headquarters FV Division field office and the NMFS field inspection office with copies of their time sheets.

B. NMFS will:

1. Upon completion of detail assignments (A.1. above) complete an advisory performance evaluation Form AD-434 for each assigned FV Division inspector in accordance with Agricultural Marketing Service Instruction 347-1, Rev. 1, dated May 20, 1975.

2. Bear all travel and related expenses of FV Division inspectors assigned to plant work with NMFS contracts (A.1. above), unless other mutually agreeable provisions are made.

3. When mutually agreeable, provide inspection service for fruits and vegetables processed in plants where the volume of pack inspected is predominantly fishery products. Such inspections shall be performed in accordance with instructions, standards, and regulations governing processed fruits and vegetables, 7 CFR 52.1-83. Fees, and other authorized related inspection expenses shall be assessed according to the regulations governing the inspection and certification of processed fishery products, 50 CFR 260.

C. It is mutually understood and agreed that:

1. The location and duration of assignments of FV Division inspectors (A.1. above) will be approved by both the FV Division and the NMFS in advance of any detail action.

2. Where inspectors of one agency are cross-licensed to perform inspections for the other, the requesting agency shall be responsible for the following:

(a) Issuing appropriate license cards or other identification to inspectors. The issuance of such cards or other identification shall be limited to those persons recommended by the performing agency and concurred in by the requesting agency.

(b) Furnish training, supervision, documents, and forms as appropriate, to carry out the work under this Memorandum of Understanding.

3. The general guidelines in this Memorandum of Understanding may be supplemented by specific guidelines in accordance with local needs subject to the approval of the Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, and the Program Manager, Fishery Products Inspection and Safety Division, NMFS.

4. This Memorandum of Understanding shall become effective upon the date the last signature is affixed hereto and shall continue until terminated by mutual consent of the parties hereto or by either party on notice in writing to the other party 30 days in advance of such termination.

5. The provisions of this Memorandum of Understanding may be modified at any time by mutual agreement.

6. Joint planning and review will be conducted every six months.

Dated: February 12, 1976.

Approved:

ROBERT M. WHITE,
Administrator, National Oceanic and Atmospheric Administration.

Dated: March 8, 1976.

DAVID E. WILKINSON,
Administrator, Agricultural Marketing Service.

Effective date. This agreement became effective March 8, 1976.

Dated: January 3, 1977.

Dated: January 27, 1977.

ROBERT M. WHITE,
Administrator.

ADDENDUM

The U.S. Department of Agriculture, Agricultural Marketing Service, Fruits and Vegetable Division, will bill the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, at the following hourly rates:

1. For FV inspectors assigned to NMFS contract establishments: Regular time, $12.15; overtime, $16.90; Sunday and legal holiday, $21.50.

FV Division will bill NMFS for 8 hours at the regular time rate for legal holidays for each assigned FV inspector, minus the number of hours worked on a holiday which will be billed at the holiday rate.

2. For lot, sanitation, consultative, and miscellaneous inspection services at the rate of $17.40 per hour plus authorized expenses.

[FR Doc.77-3503 Filed 2-3-77;8:45 am]

SEA GRANT REVIEW PANEL

Open Meeting

The Sea Grant Review Penal will hold its initial meeting from 9 a.m. to 4:30 p.m. on February 22, 1977 in Page Building No. 1, Room 418, 2001 Wisconsin Avenue NW., Washington, D.C.

The Panel was established in December 1976, and advises the Secretary of Commerce with respect to:

a. Applications or proposals for, and performance under, grants and contracts awarded under sections 205 and 206 of the Act;

b. The Sea Grant Fellowship Program, established under section 208 of the Act;

c. The designation and operation of Sea Grant Colleges and Sea Grant Regional Consortia, (which are provided for in section 207 of the Act) and the operation of Sea Grant programs;

d. The formulation and application of the planning guidelines and priorities established by the Secretary under section 204(a) of the Act and applied by the Director in accordance with section 204 (c)(1); and

e. Such other matters as the Secretary refers to the Panel for review and advice.

The Panel's meeting agenda is as follows:

9:00 a.m. to 12 Noon:
Item A: Swearing-In Ceremony
Item B: Election of Chairman and Deputy Chairman
Item C: Sea Grant NACOA Report Review
12 Noon—Lunch
Item D: Legislation Review
Item E: Proposed Legislation Changes
4:30 p.m.—Adjourn

All agenda items will be open to public attendance. Approximately thirty seats will be available to the public on a first-come, first-served basis. If time permits before the scheduled adjournment the chairman will solicit oral comments by the attendees. Written statements may be submitted at any time before or after the meeting.

Minutes of the meeting will be available 30 days thereafter on written request addressed to the National Sea Grant Program, 3300 Whitehaven Street, Washington, D.C. 20235.

For further information, contact Mr. Arthur C. Alexiou, Associate Director of Programs, at above address. Telephone (202) 634-4019.

Dated: February 1, 1977.

R. L. CARNAHAN,
Acting Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

[FR Doc.77-3604 Filed 2-3-77;8:45 am]

PRELIMINARY FISHERY MANAGEMENT PLANS

Determination, Preparation, Issuance, Implementation

On April 13, 1976, the President of the United States signed the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), (the "Act") which, among other things, authorizes the Secretary of Commerce ("Secretary") to implement certain statutory requirements of the Act.

In broad summary, the purposes of the Act are: (1) To take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by establishing, effective March 1, 1977, (a) A Fishery Conservation Zone (FCZ) within which the United States will exercise exclusive fishery management authority over all fish, except highly migratory species of tuna, and

(b) Exclusive fishery management authority beyond such zone over such anadromous species and Continental Shelf fishery resources; and

(2) To encourage the negotiation and implementation of international fishery agreements regarding foreign fishing by requiring that all foreign nations wishing to fish within the area over which the United States exercises exclusive fishery management authority have an effective international fishery agreement with the United States, and that all foreign fishing vessels have permits issued by the Secretary on board.

Pursuant to Section 204(b) of the Act the Secretary of State has notified the Secretary that the following foreign nations have submitted applications for permits for each of their fishing vessels that wish to fish in certain fisheries over which the United States exercises exclu-

sive fishery management authority under the Act:

Foreign-nation fisheries covered in application: U.S.S.R., Korea, German Democratic Republic, Poland, Romania.

Section 201(g) of the Act directs the Secretary to prepare a preliminary fishery management plan (PMP) for any fishery covered by an application by any foreign nation, if the Secretary determines that a fishery management plan (FMP) for the fishery covered in the application will not be prepared and implemented, pursuant to Title III of the Act, before March 1, 1977. By the delegations of authority in Department Organization Order 25-5A, Section 3.01dd, Amendment 4 (dated September 30, 1976) and NOAA Directives Manual 05-57 (dated December 1, 1976), the Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration (Associate Administrator) and the Director of the National Marine Fisheries Service (Director) have been delegated certain pertinent responsibilities under the Act. Based upon information received from the eight Regional Fishery Management Councils and the Associate Administrator's independent evaluation of the matter, the Associate Administrator has determined that no FMP's can be prepared and implemented before March 1, 1977 with respect to the fisheries covered in the above applications.

Accordingly, the National Oceanic and Atmospheric Administration ("NOAA") has prepared, and the Associate Administrator, (pursuant to the delegations of authority referenced above) on January 11, 1977 and January 26, 1977 approved for issuance, PMP's for the following fisheries:

Trawl fisheries of Washington, Oregon and California.
Sablefish fishery of the Bering Sea and Northeastern Pacific.
Trawl fishery of the Gulf of Alaska.
Trawl fisheries and Herring Gillnet Fishery of the Bering Sea and Aleutian Islands.
King and Tanner Crab fisheries of the Eastern Bering Sea.
Seamount Groundfish fishery of the Pacific.
Snail fishery of the Eastern Bering Sea.

Each PMP will remain in effect with respect to foreign fishing until an FMP is prepared and implemented for the fishery covered in the PMP. Pursuant to Section 201(g) of the Act (and pursuant to the delegations of authority referenced above) the Director is promulgating regulations to implement the above-listed PMP's to become effective March 1, 1977. These regulations are being promulgated under procedures permitted under the Administrative Procedures Act (APA), 5 U.S.C. 553(b). This section provides that an agency need not give formal notice of proposed rulemaking * * *

when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

The agency finds that formal notice of proposed rulemaking is impracticable, unnecessary and contrary to the public interest for two reasons. First, on December 23, 1976, an "Invitation for Public Comment on Draft Foreign Fishing Regulations" was published in the FEDERAL REGISTER, 41 FR 55904. The public was informed in the notice that inasmuch as promulgation of Final Regulations would be necessary on February 4, 1977, no formal notice of proposed rulemaking would be possible. However, the public was given thirty days in which to comment on the draft regulations. All comments received were considered in formulating these Final Regulations. This agency believes that the initial thirty day comment period on the draft regulations fully satisfies the intent of Section 553 of the A.P.A., thus making a notice of proposed rulemaking and comment period on the Final Regulations unnecessary.

Furthermore, publishing formal notice of proposed rulemaking would be contrary to the public interest in that if the public is given a second thirty day comment period, the agency would not be able to promulgate Final Regulations until April 1977. This would mean that foreign fishing vessels would not be able to fish legally within the area or for the species over which the United States exercises exclusive jurisdiction for at least thirty days (March 1, 1977 until April 1977). This delay could seriously jeopardize the international relations between the U.S. and foreign nations whose vessels fish in the FCZ. This would clearly be contrary to the public interest.

The regulations adopted herein are being made effective as of March 1, 1977. While the demands of time do not permit publication in the FEDERAL REGISTER at least thirty (30) days prior to March 1, 1977, the agency believes that good cause exists for the adoption of this effective date in light of the above discussion on the need for foreign fishing regulations by March 1, 1977.

NOTE—NOAA has determined that this document contains a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107 and certifies that an Inflation Impact Statement has been prepared.

Additional copies of the PMP's and the implementing regulations as well as the Inflation Impact Statement may be obtained by writing the Director, National Marine Fisheries Service, 3300 Whitehaven Parkway, NW., Washington, D.C. 20235.

Dated: February 1, 1977 at Washington, D.C.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

[FR Doc.77-3715 Filed 2-3-77;10:10 am]

NEW ENGLAND FISHERY MANAGEMENT COUNCIL; MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Hearing

Notice is hereby given of a joint public hearing to receive public views and comments concerning (1) A Draft Environmental Impact Statement and (2) A Draft Fishery Management Plan (DEIS/DFMP) prepared for the groundfish fishery of the northwest Atlantic.

This hearing will follow a series of public meetings which were announced in 42 FR 5119 on January 27, 1977.

The hearing on the DEIS will be chaired by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-190).

The hearing on the DFMP will be chaired by the New England Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) in consultation with the Mid-Atlantic Fishery Management Council.

The DEIS/DFMP deals with the regulation of the U.S. domestic groundfish fishery for the following three species: haddock (*Melanogrammus aeglofinus*), Atlantic cod (*Gadus morhua*), and yellowtail flounder (*Limanda ferruginea*). The joint hearing will be held from 7:30-9:30 p.m. on 22 February, 1977 at:

Holiday Inn, Route U.S. 1 north at junction of 128, Peabody, Massachusetts.

The DFMP portion of the hearing will begin at 7:30 p.m. and the DEIS portion will be held immediately upon completion of the DFMP portion in the same room.

The DFMP was published in the FEDERAL REGISTER on 28 January, 1977. In addition a copy of the complete DEIS/DFMP is available for public review at:

Northeast Regional Office, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts;

and will be available for viewing at the public hearing; or by contacting any member of the New England or Mid-Atlantic Fishery Management Councils.

Summaries of the DEIS/DFMP will be distributed to interested members of the public at the public hearing or may be obtained by contacting either address listed below.

Written comments on the DFMP may be submitted by interested member of the public no later than February 23, 1977. Send comments on the Draft Fishery Management Plan to:

Henry Lyman, Chairman, New England Fishery Management Council, c/o Salt Water Sportsman, 10 High Street, Boston, Massachusetts 02110.

Written comments on the DEIS may be submitted by interested members of the public no later than 14 March, 1977. Send comments on the Draft Environmental Impact Statement to:

Regional Director, National Marine Fisheries Service, Federal Building—14 Elm Street, Gloucester, Massachusetts 01930.

Dated: January 31, 1977 at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-3716 Filed 3-2-77;8:45 am]

FISHERY MANAGEMENT PLAN FOR COMMERCIAL TROLL AND RECREATIONAL SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Draft Environmental Impact Statement/ Fishery Management Plan, Availability

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Oceanic and Atmospheric Administration, Department of Commerce, and the Pacific Fishery Management Council have jointly prepared a draft environmental impact statement for the proposed implementation of the Fishery Management Plan for Commercial Troll and Recreation Salmon Fisheries off the Coasts of Washington, Oregon, and California. In accordance with provisions of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) the plan has been prepared by the Pacific Fishery Management Council and requires approval by the Secretary of Commerce prior to its implementation.

The environmental statement concerns a proposal to adopt and implement a fishery management plan for commercial troll and recreational salmon fisheries off the Coasts of Washington, Oregon, and California pursuant to the Fishery Conservation and Management Act of 1976, which extends U.S. jurisdiction over marine fishery resources to 200 nautical miles and establishes a program for their management. Upon approval, the plan will serve to manage salmon fishery resources off the Coasts of Washington, Oregon, and California for optimum yield and to allocate harvest among domestic fishermen. The plan recommends more restrictive ocean salmon fishery regulations during 1977 for waters off the Washington coast and Columbia River mouth as compared with those prevailing during 1976 and prior years. For Oregon and California ocean waters south of Tillamook Head, a regulatory pattern similar to that of 1976 is recommended for continuance during 1977, but alternative regulations will probably be needed in future years to achieve sound resource management.

Written comments may be submitted on or before March 6, 1977, to the Chairman, Pacific Fishery Management Council, c/o National Marine Fisheries Service, 1700 Westlake Avenue, Seattle, Washington 98109. The abbreviated comment period is necessary to enable the Pacific Fishery Management Council to consider all comments on the draft environmental impact statement/fishery management plan so that the Secretary may implement the plan with the appropriate regulations on or about April 11, 1977.

Individuals or organizations wishing to comment on the draft environmental impact statement/fishery management plan may also do so at public hearings to be held at the times and locations located below:

City	Time and date, 1977	Location
Seattle, Wash	Feb. 19, 9 a.m.	Spanish Ballroom, Olympic Hotel, 4th and Seneca Sts.
Boise, Idaho	Feb. 19, 7:30 p.m.	Sawtooth-Selway Rooms, Ramada Inn, 1901 Main St.
Astoria, Oreg.	Feb. 20, 7:30 p.m.	Auditorium, Astoria High School, 1001 West Marine Dr.
Charleston, Oreg. (Coos Bay).	Feb. 21, 7:30 p.m.	Power Squadron Bldg., Boat Basin Rd.
Eureka, Calif.	Feb. 24, 7 p.m.	Board of Supervisors' Chambers (2d floor of courthouse), 825 5th St.
San Francisco, Calif.	Feb. 25, 7 p.m.	California State Office Bldg., 455 Golden Gate Ave.

Copies of the draft environmental statement are available for inspection at the following locations:

National Oceanic and Atmospheric Administration, Environmental Science Information Center, Page Bldg. 2, Room 193, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

Northwest Regional Office, National Marine Fisheries Service, Lake Union Building, Room 210, 1700 Westlake Avenue, Seattle, Washington 98109.

Alaska Regional Office, National Marine Fisheries Service, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska 99801.

Southwest Regional Office, National Marine Fisheries Service, Room 2024, U.S. Customs Building, 300 South Ferry Street, Terminal Island, California 90731.

A limited number of copies are available from the Northwest Regional Office, National Marine Fisheries Service, 1700 Westlake Avenue, Seattle, Washington 98109.

This Notice of Availability is being published at the request of and in cooperation with the Pacific Fishery Management Council.

Dated this 2nd day of February, 1977 at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-3877 Filed 2-3-77;8:45 am]

PRELIMINARY FISHERY MANAGEMENT PLANS, GULF OF ALASKA, BERING SEA AND ALEUTIAN ISLANDS

Availability of Final Environmental Impact Statement/Fishery Management Plans

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Oceanic and Atmospheric Administration, Department of Commerce, has prepared final environmental impact statements for the proposed implementation of the following preliminary fishery management plans:

Trawl Fishery of the Gulf of Alaska.
Trawl and Herring Gillnet Fishery of the Bering Sea and Aleutian Islands.
King and Tanner Crabs of the Eastern Bering Sea.

These plans have been prepared as prescribed by the Fishery Conservation and Management Act of 1976, which extends United States jurisdiction over foreign and domestic marine fisheries to 200 nautical miles.

Trawl Fishery of the Gulf of Alaska: Proposed is the adoption and implementation of a preliminary fishery management plan for the trawl fishery of the Gulf of Alaska. The plan serves to manage foreign trawl fisheries off the United States coast in the Gulf of Alaska for optimum sustained yield, and to allocate harvest between domestic and foreign fishermen. Total allowable catch (TAC) for walleye pollock and Pacific ocean perch (and other rockfishes) will be 150,000 and 30,000 metric tons, respectively. The total allowable catch for flounders will be 23,500 metric tons, and all other species in this category will be reduced to a TAC of 16,200 metric tons. Regulations include specific time and area allocations.

Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Aleutian Islands: Proposed is the adoption and implementation of a preliminary fishery management plan for the trawl fisheries and herring gillnet fishery of the eastern Bering Sea and Aleutian Islands. The plan has been developed to achieve optimum sustained yield and to allocate harvest between domestic and foreign fishermen.

Total allowable catch for major species, Walleye pollock and yellowfin sole, will be 950,000 and 106,000 metric tons, respectively. Specific region-wide restrictions and area-time closures have been recommended. A reduction in foreign fishing has been provided by the plan.

King and Tanner Crabs of the Eastern Bering Sea: Proposed is the adoption and implementation of a preliminary fishery management plan for the king and tanner crab fisheries of the Eastern Bering Sea. The plan describes the fishery and provides a preliminary determination of the fisheries' optimum yield. The plan proposes a total allowable level of foreign fishing based on optimum yield and the capacity of the domestic fishery. No foreign fishery for king crabs will be permitted. The foreign fishery will be permitted to take 12,500 metric tons of tanner crabs from the area north of 56° N. latitude and west of 164° W. longitude.

Because of the urgent need to have a management regime in effect with regard to foreign fishing by March 1, 1977, the Council of Environmental Quality has agreed to waive that part of its Guidelines recommending that an agency suspend a proposed action for thirty (30) day period during which the final text of an Environmental Impact Statement will be available for public inspection. In light of this, the Preliminary Management Plans which shall be published as soon as possible, shall become effective March 1, 1977.

Copies of the final environmental statements are available for inspection at the following locations:

National Oceanic and Atmospheric Administration, Environmental Science Information Center, Page Building No. 2, Room 193, 3300 Whitehaven Street NW., Washington, D.C. 20235.

Northwest Regional Office, National Marine Fisheries Service, Lake Union Building, Room 210, 1700 Westlake Avenue, Seattle, Washington 98109.

Alaska Regional Office, National Marine Fisheries Service, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99801.

A limited number of copies are available from the Northwest Regional Office (address above). In addition, copies may be purchased from the Document Service, Environmental Law Institute, 1346 Connecticut Avenue NW., Washington, D.C. 20036.

Dated this 2nd day of February 1977 at Washington, D.C.

WINFRED H. MEIBOLM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-3815 Filed 2-3-77;8:45 am]

PRELIMINARY FISHERY MANAGEMENT PLANS; NORTHWESTERN ATLANTIC

Final Environmental Impact Statement/ Fishery Management Plans; Availability

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Oceanic and Atmospheric Administration, Department of Commerce, has prepared final environmental impact statements for the proposed implementation of the following preliminary fishery management plans:

Hake Fisheries of the Northwestern Atlantic.
Atlantic Mackerel Fishery of the Northwestern Atlantic.
Squid Fisheries of the Northwestern Atlantic.
Atlantic Herring Fishery of the Northwestern Atlantic.
Finfish Caught Incidental to the Trawl Fisheries of the Northwestern Atlantic.

These plans have been prepared as prescribed by the Fishery Conservation and Management Act of 1976, which extends United States jurisdiction over foreign and domestic marine fisheries to 200 nautical miles.

Titles for the draft environmental impact statements for the proposed implementation of the preliminary fishery management plans cited above were, respectively, Red Hake and Silver Hake, Atlantic Mackerel, Short-finned and Long-finned Squid, Atlantic Herring, and Other Finfish (ICNAF Areas 5 and 6). These titles have been revised in the final environmental impact statements to make them more descriptive of the fisheries involved.

Hake Fisheries of the Northwestern Atlantic: Proposed is the adoption and implementation of a preliminary fishery management plan for the hake fisheries of the Northwestern Atlantic. The plan contains conservation and management measures applicable to foreign fishing. The red hake and silver hake fisheries were previously regulated under agreements reached between the U.S. and 18 signatory nations of the International Commission for the Northwest Atlantic Fisheries (ICNAF). The plan describes the fisheries and provides a preliminary determination of the fisheries' optimum yield. The plan proposes a total allowable level of foreign fishing based on optimum yield and the capacity of the domestic fisheries. Limitations on the fishing activities of foreign nations are also described.

Atlantic Mackerel Fishery of the Northwestern Atlantic: Proposed is the adoption and implementation of a preliminary fishery management plan for the Atlantic mackerel fishery of the Northwestern Atlantic. The plan contains conservation and management measures applicable to foreign fishing. The Atlantic mackerel fishery of the Northwestern Atlantic was previously regulated under agreements reached between the U.S. and 18 signatory nations of the International Commission for the Northwest Atlantic Fisheries (ICNAF). The plan describes the fishery and provides a preliminary determination of the fishery's optimum field. The plan proposes a total allowable level at foreign fishing based on optimum yield and the capacity of the doemstic fishery. Limitations on the fishing activities of foreign nations are also described.

Squid Fisheries of the Northwestern Atlantic: Proposed is the adoption and implementation of a preliminary fishery management plan for the squid fisheries of the Northwestern Atlantic. The plan contains conservation and measures applicable to foreign fishing. Squid fisheries of the Northwestern Atlantic were previously regulated under agreements reached between the U.S. and 18 signatory nations of the International Commission for the Northwest Atlantic Fisheries (ICNAF). The plan describes the fisheries and provides a preliminary determination of the fisheries' optimum yield. The plan proposes a total allowable level at foreign fishing based on optimum and the capacity of the domestic fisheries. Limitations on the fishing activities of foreign nations are also described.

Atlantic Herring Fishery of the Northwestern Atlantic: Proposed is the adoption and implementation of a preliminary fishery management plan for the Atlantic herring fishery of the Northwestern Atlantic. The plan contains conservation and measures applicable to foreign fishing. The Atlantic herring fishery of the Northwestern Atlantic was previously regulated under agreements reached between the U.S. and 18 signatory nations of the International Commission for the Northwest Atlantic Fisheries (ICNAF). The plan describes the fishery and provides a preliminary determination of the fishery's optimum yield. The plan proposes a total allowable level at foreign fishing based on optimum yield and the capacity of the domestic fishery. Limitations on the fishing activities of foreign nations are also described.

Finfish Caught Incidental to the Trawl Fisheries of the Northwestern Atlantic: Proposed in the adoption and implementation of a preliminary fishery management plan for those species of finfish caught incidental to the trawl fisheries of the Northwestern Atlantic. The plan contains conservation and management measures applicable to foreign fishing. This catch was previously regulated under agreements reached between the U.S. and 18 signatory nations of the International Commission for the Northwest Atlantic Fisheries (ICNAF). The plan describes the incidental fishery and provides a preliminary determination of its optimum yield. The plan proposes a total allowable level of foreign fishing based on optimum yield and the capacity for a domestic harvest. Limitations on the fishing activities of foreign nations are also described.

Because of the urgent need to have a management regime in effect with regard to foreign fishing by March 1, 1977, the Council on Environmental Quality has agreed to waive that part of its Guidelines recommending that an agency suspend a proposed action for thirty (30) day period during which the final text of an Environmental Impact Statement will be available for public inspection. In light of this, the Preliminary Management Plans shall become effective immediately and implementing regulations, which shall be published as soon as possible, shall become effective March 1, 1977.

Copies of the Final Environmental Statements are available for inspection at the following locations:

National Oceanic and Atmospheric Administration, Environmental Science Information Center, Page Building 2, Room 193, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

Northeast Regional Office, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

A limited number of copies are available from the Northeast Regional Office (address above). In addition, copies may be purchased from the Document Service, Environmental Law Institute, 1346 Connecticut Avenue, N.W., Washington, D.C. 20036.

Dated this 2nd day of February 1977 at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-3818 Filed 2-3-77;8:45 am]

PRELIMINARY FISHERY MANAGEMENT PLAN FOR SABLEFISH OF THE BERING SEA AND NORTHEASTERN PACIFIC OCEAN

Final Environmental Impact Statement/ Fishery Management Plan, Availability

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Oceanic and Atmospheric Administration, Department of Commerce, has prepared a final environmental impact statement for the proposed implementation of a preliminary fishery management plan for Sablefish of the Bering Sea and North-eastern Pacific Ocean. This plan has been prepared pursuant to the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) which extends United States jurisdiction over foreign and domestic marine fisheries to 200 nautical miles.

Proposed is the adoption by the Secretary of Commerce and implementation of a preliminary fishery management plan for the Sablefish fishery of the Bering Sea and the Northeastern Pacific Ocean. The plan contains conservation and management measures applicable to foreign fishing. The plan describes the fishery and provides a preliminary determination of the fishery's optimum yield. The plan proposes a total allowable level of foreign fishing based on optimum yield and the capacity of the domestic fishery. Limitations on the fishing activities of foreign nations are also described.

Because of the urgent need to have a management regime in effect with regard to foreign fishing by March 1, 1977, the Council on Environmental Quality has agreed to waive that part of its Guidelines recommending that an agency suspend a proposed action for a thirty (30) day period during which the final text of an Environmental Impact Statement will be available for public inspection. In light of this, the Preliminary Management Plans shall become effective immediately and implementing regulations, which shall be published as soon as possible, shall became effective March 1, 1977.

Copies of the final environmental impact statement are available for inspection at the following locations:

National Oceanic and Atmospheric Administration, Environmental Science Information Center, Page Building No. 2, Room 193, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

Northwest Regional Office, National Marine Fisheries Service, Lake Union Building, Room 210, 1700 Westlake Avenue, Seattle, Washington 98109.

Alaska Regional Office, National Marine Fisheries Service, Federal Building, Room 453, Juneau, Alaska 99802.

A limited number of copies are available from the Northwest Regional Office (address above). In addition, copies may be purchased from the Document Service, Environmental Law Institute, 1346 Connecticut Avenue, N.W., Washington, D.C. 20036.

Dated this 2nd day of February 1977 at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-3816 Filed 2-3-77;8:45 am]

Office of the Secretary

PRIVACY ACT OF 1974

Systems of Records

The purposes of this notice are first, to describe, for the benefit of the public and at the request of the Office of Management and Budget, changes made to Department of Commerce systems of records not requiring public comment which were reflected in the September 13, 1976, annual publication of all systems (41 FR 38950-94); and second, to make corrections to the September 13 notice. The Department's systems of records were previously noticed October 2, 1975, and amended and/or corrected several times between October 2, 1975 and September 13, 1976, as described in Appendix II to the September 13, 1976 notice (41 FR 38953).

CHANGES

The changes are described below, and are listed in the order in which they appear in the September 13, 1976 publication, except for miscellaneous changes which are described last.

1. General Routine Use No. 7 in the Prefatory Statement (see 40 FR 45635, October 2, 1975) is deleted. No disclosure to the Smithsonian Science Information Exchange, Inc., is made by the Department from a Privacy Act system of records.

2. General Routine Use No. 11 in the Prefatory Statement (see 40 FR 45635, October 2, 1975) is deleted as not appropriate.

3. The "Retrievability" paragraph of the Commerce/Dept.-12 system of records, "Investigative Records—Contract and Grant Frauds and Employee Criminal Misconduct," has been rewritten to reflect different filing practices at the locations listed.

4. The Commerce/Dept.-17 system of records, "Records of Cash Receipts," has been revised to delete the National Oceanic and Atmospheric Administration (NOAA). NOAA has no such system.

5. An additional system location has been added to Commerce/Dept.-18, "Employee Personnel Files Not Covered by U.S. Civil Service Commission," to include records maintained by the National Academy of Sciences under contract from the National Bureau of Standards (NBS).

6. In the DIBA-4 system of records, the system name and the paragraph "Categories of Individuals Covered by the System" were reworded to more precisely describe the system and the individuals covered, and the paragraph "Categories of Records" was amended to include passport numbers, which had been inadvertently omitted.

7. All three systems of records of the Economic Development Administration (EDA) were deleted. EDA-1, "Applicant Resumes for EDA-Funded Planning Grantee Positions," is not system of records within the meaning of the Privacy Act; the records are retrieved by name of grantee organization, not individual identifier. The records comprising EDA-2, "Indian Industrial Development Intern Records, and EDA-3, "Indian Reservation Economic Development Planners and Applicants Records," were no longer needed to accomplish an agency purpose, and were destroyed.

8. The NBS-2 system of records "Inventors of Energy-Related Processes and Devices," was revised to delete references to statements of nondisclosure signed by NBS employees. The statement contains no personal information and is not a record within the meaning of the Privacy Act.

9. The NOAA-9 system of records, "Commissioners of International Fishery Commissions," was under consideration for inclusion in a Departmentwide system, but no final decision has been made. Therefore, the deletion of NOAA-9 was premature, and is hereby rescinded until further notice. The NOAA-9 system is reprinted for the benefit of the public following the "Corrections" section below.

10. The NOAA-10 system of records, "Employee Production Records," was revised to delete references to the field finance offices. However, this deletion was erroneous; and all references to field finance offices should be restored. The NOAA-10 system is reprinted for the benefit of the public following the "Corrections" section below.

11. The NOAA-15 system, "Sales Agents Authorized to Retail NOAA Aeronautical and Nautical Charts," was deleted because it is not a system of records within the meaning of the Privacy Act; records are retrieved by city and state, not by individual identifier.

12. The "Category of Records" paragraph of the Patent-Trademark-6 system, "Parties Involved in Patent Interference Proceedings," was revised to specify that interference settlement agreements are covered in the system.

13. Lastly, other changes of a miscellaneous nature have been made throughout the notice of systems. These include changes to the index of systems, changes to unit designations because of reorganizations, and additions to the paragraph "Authority for Maintenance of the System."

Questions concerning changes may be directed to the Assistant Secretary for Administration (Attn: Information Management Division, Room 5026, telephone 202-377-4217), U.S. Department of Commerce, 14th and E Streets, N.W., Washington, D.C. 20230.

CORRECTIONS

The corrections are listed in the order in which they appear in the September 13, 1976, FEDERAL REGISTER.

1. On page 38951, in the first column, in the paragraph entitled "Storage," the phrase "bond paper director" should read "bound paper directory."

2. On page 38953, in the second column, in numbered item 6, the phrase "both proposed June 10, 1976" should read "proposed June 10, 1976, and June 18, 1976, respectively."

3. On page 38954, in the second column, the name of the DIBA–4 system of records should read "Directors of U.S. Trade Missions, Chairman of U.S. Government Technical Sales Seminars, and Technical Representatives of Catalog Exhibits."

4. On page 38955, in the first column, restore the NOAA–9 system of records, "Commissioners of International Fishery Commissions," to the index.

5. On page 38985, in the second column, insert the Commerce/NOAA–9 system of records following the NOAA–8 system. The NOAA–9 system is printed below for the benefit of the public.

6. On page 38985, in the second column, revise the Commerce/NOAA–10 system of records to include field finance offices in the system location paragraph and in the system manager paragraph. The complete system is printed below for the benefit of the public.

Dated: January 24, 1977.

GUY W. CHAMBERLIN,
Acting Assistant Secretary for Administration.

Commerce/NOAA–9

System name:

Commissioners of International Fishery Commissions–Commerce/NOAA–9.

System location:

Office of International Fisheries, NMFS, NOAA, Page Building 02, U.S. Department of Commerce, 3300 Whitehaven, Washington, D.C. 20235.

Categories of individuals covered by the system:

Past and present commissioners of international fisheries commissions, e.g., the Inter-American Tropical Tuna Commission, the North Pacific Fur Seal Commission.

Categories of records in the system:

Biographical data; education; past work experience; and positions previously held.

Authority for maintenance of the system:

5 U.S.C. 301; 44 U.S.C. 3101, and other relevant statutes and international conventions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Notebook of forms.

Retrievability:

Listing is alphabetical by name.

Safeguards:

List is in file cabinet in room which is locked when unoccupied.

Retention and disposal:

Indefinite retention.

System manager(s) and address:

Senior Policy Analyst, Office of International Fisheries, F4, NMFS, NOAA, Commerce, Washington, D.C.

Notification procedure:

Information may be obtained from: Assistant Administrator for Administration, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name and address, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures:

Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories:

Subject individual and those authorized by the individual to furnish information.

Commerce/NOAA–10

System name:

Employee Production Records Commerce/NOAA–10.

System location:

Field Finance Offices (Boulder, Colo.; Kansas City, Mo.; Miami, Fla.; and Rockville, Md.) of NOAA Finance Division, 6010 Executive Blvd., Rockville, Md. 20852 and Microfilming Unit, Technical Services Branch, National Climatic Center, NOAA, Federal Building, Ashville, N.C. 28801.

Categories of individuals covered by the system:

Certain NOAA employees at the system location.

Categories of records in the system:

Employee output in workload units; number of records filmed each work day by each employee.

Authority for maintenance of the system:

5 U.S.C. 301; 33 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See routine use paragraphs of the Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by name.

Safeguards:

Records are kept in offices locked during nonworking hours.

Retention and disposal:

Records are retained until superseded by current data and then destroyed.

System manager(s) and address:

As appropriate: Chief, Field Finance Officers or Director, National Climatic Center, see above addresses.

Notification procedure:

Information may be obtained from: Assistant Administrator for Administration, NOAA, 6010 Executive Boulevard, Rockville, Maryland 20852. Requester should provide name, place of employment (name and location of office, division, branch, and section), dates employed, and social security number, pursuant to the inquiry provisions of the Department's rules which appear in 15 CFR Part 4b.

Record access procedures:

Requests from individuals should be addressed to: same address as stated in the notification section above.

Contesting record procedures:

The Department's rules for access, for contesting contents, and appealing initial determinations by the individual concerned appear in 15 CFR Part 4b. Use above address.

Record source categories:

Compiled from organization work sheets and from logs posted by employees.

[FR Doc.77-3518 Filed 2-3-77;8:45 am]

COMMITTEE OF INDUSTRY SECTOR ADVISORY COMMITTEE CHAIRMEN FOR MULTILATERAL TRADE NEGOTIATIONS

Establishment

Pursuant to the authority delegated under Executive Order 11846 of March 27, 1975, the Special Representative for Trade Negotiations (the "Special Representative") and the Secretary of Commerce ("the Secretary") have determined that a Committee of Industry Sector Advisory Commitee Chairmen for Multilateral Trade Negotiations should be established as an advisory committee under the provisions of subsection 135 (c) (2) of the Trade Act of 1974 (Pub. L. 93–618). In reaching such decision, the Special Representative and the Secretary have consulted with interested private organizations and have taken into account the factors set forth in subsection 135(c) (2) (B) of the Trade Act of 1974.

The Committee will advise the Special Representative, in conjunction with the

Secretary, on matters which are of common interest to the ISACs and the United States in connection with the multilateral trade negotiations being undertaken by the United States pursuant to sections 101 and 102 of the Trade Act of 1974. The Committee shall perform such functions and duties as provided for in section 135 of the Trade Act of 1974 with respect to sector advisory committees established pursuant to section 135 (c)(2) thereof.

The Committee will be composed of the Chairmen of each of the Industry Sector Advisory Committees for the Multilateral Trade Negotiations. In the absence of the Chairman of a particular ISAC, the Vice Chairman of such ISAC may serve as an alternate member.

The Committee will function solely as an advisory body and the Department's Bureau of International Economic Policy and Research will provide staff support and services. Except as noted, the Department will be responsible for filings and other applicable statutory requirements of the Federal Advisory Committee Act. The Special Representative, or his designee, will have responsibility for determinations made pursuant to subsection 135(f) of the Trade Act of 1974.

The Charter for this Committee will be filed, in accordance with the law, with the concerned Congressional Committees.

Dated: January 31, 1977.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc.77-3652 Filed 2-3-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Additions

Notice of proposed additions to Procurement List 1977, November 18, 1976 (41 FR 50975) of the commodities listed below was published in the FEDERAL REGISTER on August 20, 1976 (41 FR 35210).

After consideration of all the relevant data presented, the Committee has determined that the commodities listed below are suitable for procurement by the Government under Pub. L. 92-28, 85 Stat. 77. Accordingly, they are hereby added to the Procurement List.

Class 8315

Sewing Kit, Air Force (8H), 8315-00-816-5905 G.F.M.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-3611 Filed 2-3-77;8:45 am]

PROCUREMENT LIST 1977

Proposed Additions

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 commodities to Procurement List 1977, November 18, 1976 (41 FR 50975).

Class 6532

Gown, Operating, Surgical, 6532-00-700-7651, 6532-00-700-7679, 6532-00-700-7733.

If the Committee approves the proposed additions, all entities of the Government will be required to procure the above commodities from workshops for the blind or other severely handicapped.

Comments and views regarding the proposed additions may be filed with the Committee on or before March 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 (August 4, 1977).

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-3612 Filed 2-3-77;8:45 am]

Proposed Additions

Correction

In FR Doc. 77-2263 appearing on page 4512 of the issue for Tuesday, January 25, 1977, in the second line of the third paragraph, "proposed deletions may be filed" should read "proposed additions may be filed".

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Receipt and Availability

Environmental impact statements received by the Council on Environmental Quality from January 24 through January 28, 1977. 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 is forty-five (45) days from this FEDERAL REGISTER notice of availability (March 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 Enviromental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250 (202)-447-3965.

FOREST SERVICE

Draft

S. Fork Salmon R. Unit Plan, Valley County, Idaho, January 24: Proposed is a land use plan for the 348,328-acre South Fork Salmon River Planning Unit. Of this acreage, 246,000 lie within the Krassel Ranger District of Payette National Forest and 102,328 acres are in the Cascade Ranger District of Boise National Forest. The Unit also includes 855 acres of privately owned land, and 3,840 acres of State owned land—remote school sections that have no access. Land allocation areas include recreation, wilderness study and big game winter range. (ELR Order No. 70097.)

Green Mountain N.F. Timber Management Plan, several Vermont counties, January 24: Proposed is a 10-year Management Plan for the Green Mountain National Forest to cover the period of January 1, 1977 to September 30, 1986. The program harvest for the period will average 69 percent of the potential yield, which is 206.6 M cunits of sawlogs and 256.0 M cunits of products annually. The plan also discusses silvicultural prescriptions, reforestation, timber stand improvement, transportation development, and protection. Adverse effects include the temporary degradation of the visual resource, and temporary increases in stream turbidity. (ELR Order No. 70095.)

Union Pass Unit Plan, Bridger-Teton N.F., Sublette and Fremont Counties, Wyoming, January 26: The proposed action is a comprehensive land use plan for the Union Pass Planning Unit, Bridger-Teton National Forest. The unit contains approximately 180,000 acres of National Forest, and about 1,800 acres of non-National Forest land. Significant activities provided for in the plan are an annual timber harvest averaging about 1.5-2.5 million board feet and summer livestock grazing of about 30,000 cow months and 10,000 sheep months. Reasonable exploration of subsurface resources including minerals, oil, and gas is provided for. (ELR Order No. 70113.)

Final

Burnett Non-Profit Fish Hatchery, Alaska, January 24: The proposed action is the construction of non-profit hatchery structures on National Forest lands in Burnett Inlet, southeast Alaska. The project is designed to contribute to the restoration of the depleted salmon fishery by constructing a hatchery building and support facilities such as pipelines, generating structures, residence buildings, a boat landing, and access trails. Approximately ten million salmon fry will be incubated and reared. Adverse impacts include the discharge of metabolic and human wastes into the water during construction, and the loss of the wilderness character of the project area. Comments made by: DOI, AHP, EPA, USDA, HUD, state agencies, and concerned groups. (ELR Order No. 70093.)

CONSUMER PRODUCT SAFETY COMMISSION

Contact: Mr. Glen Simpson, Bureau of Economic Analysis, Consumer Product Safety Commission, 5401 Westbard Avenue, Room 533, Washington, D.C. 20207, 301-492-6542.

Draft

Lead Content in Paint, Hazardous Product Ban, January 26: Proposed is the banning of several items containing lead paint as hazardous products. They include: lead-containing paint and similar surface-coating materials containing more than .06% lead; toys and other articles intended for use by children bearing lead-containing paint or other similar surface-coating materials containing more than .06% lead; and articles of furniture containing paint or other similar surface-coating materials containing more than .06% lead. The effect of the regulations will be that no lead may be intentionally added to paints or coatings used for painted sur-

faces intended for consumer use. (ELR Order No. 70114.)

DEPARTMENT OF DEFENSE

ARMY

Draft

Ground Squirrel Control, Fort Ord Complex, Monterey and San Luis Obispo Counties, California, January 28: Proposed is the significant reduction of ground squirrel populations occupying large areas of grassland and woodland-grassland on Fort Ord, Fort Hunter Liggett and Camp Roberts, located in Monterey and San Luis Obispo Counties. This action would treat the open range ground squirrel habitat at Fort Hunter Liggett and Camp Roberts with 1080-treated bait from the air. Zinc phosphide would be applied by hand to open-range ground squirrel habitat on Fort Ord. Environmental impacts include the reduction of populations of other seed-eating rodents such as meadow voles, kangaroo rats, field mice and seed-eating birds due to secondary poisoning. (ELR Order No. 70122.)

McGregor Range-Land Use Withdrawal, El Paso County, Texas, January 27: The statement proposes the extension of the land withdrawal which allows the Fort Bliss Military Reservation to utilize the lands that comprise McGregor Range. The present arrangement is due to expire in August 1977. The Department of the Army developed this EIS in close cooperation and coordination with the Department of the Interior. The withdrawal will be extended for an initial 15-year period, followed by two 10-year periods, subject to review by the USA, DOI, and USDA. The military use of tracked and wheeled vehicles on the range can cause soil erosion and disturb vegetation and wildlife. (ELR Order No. 70116.)

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

Panama City Beaches, Erosion Control (2), Bay County, Florida, January 24: The proposed project would include 18.5 miles of beach restoration plus an artificial dune and berm between Phillips Inlet and the entrance channel into Panama City Harbor. The work would involve dredging offshore at the 10-fathom (60-foot) contour, which varies between one-half to one mile offshore. There would be an initial need for 7,865,000 cubic yards of sand to construct the entire 18.5-mile project. Renourishment of the beach would require 946,000 cubic yards of sand at 10-year intervals. Temporary adverse effects would occur during construction and renourishment operations. (Mobile District). (ELR Order No. 70100.)

Little Bay Maintenance Dredging, Arkansas County, Texas, January 24: Proposed is the periodic maintenance dredging of the Little Bay, Texas project. The Little Bay project is a shallow draft channel and turning basin in Arkansas Bay adjacent to Fulton, Texas. The project includes a channel 8 feet deep, 200 feet wide, and 1,400 feet long. Adverse effects include the removal or disturbance of motile and bottom dwelling organisms from the channel, turning basin, and disposal area. (Galveston District.) (ELR Order No. 70101.)

Dry Creek Flood Control, Ephrate (2), Grant County, Washington, January 26: Proposed is a project which would provide 100-year flood protection to the cities of Ephrate and Soap Lake and the unincorporated community of Lakeview, Washington. The project would involve construction of a 500-foot debris basin; 3,600 feet of concrete lined channel and 3,600 feet of unlined channel; easements over 270 acres in the ponding area; and 7.4 miles of outlet channel of which 4.5 miles would be natural swale. Some farmlands may be severed by the discharge channel but homes will not be displaced. (Washington, D.C. Office.) (ELR Order No. 70110.)

Final

Honolulu Harbor, Oahu County, Hawaii, January 24: The proposed plan provides for increasing project depths of the Honolulu Harbor main entrance channel from 40 feet to 45 feet and for increasing project depths of the basins and Kapalma Channel from 35 to 40 feet. The deepening will involve dredging about 1.3 million cubic yards of material which would be disposed of at a deep ocean dredge material disposal site. Adverse effects include turbidity caused by the dredging, destruction of benthic resources, and impacts upon the disposal area. (Honolulu District.) Comments made by: EPA, AHP, USDA, HEW, DOC, DOI, DOT, DOD, state agencies, and concerned citizens. (ELR Order No. 70098.)

Petit Anse, Tigre and Carlin Bayous; and Bayou Gross, several Louisiana counties, January 24: The proposed action is the operation and maintenance of the Gulf Intracoastal Waterway (GIWW) and associated locks, Bayous Gross Tete, Petit Anse, Carlin and Tigre. The project provides for maintenance dredging to assure that the waterways maintain design dimensions and that the associated control structures function properly without interference from accumulated sediment. Dissolved oxygen levels will be temporarily increased. Adverse effects include the taking of 900 acres of land per year for disposal activities, changing of surface water flow patterns, and disruption of local aquatic biological communities. (New Orleans District.) Comments made by: DOI, EPA, DOC, USDA. (ELR Order No. 70094.)

Deep Creek Flood Control Project, Edgecombe County, North Carolina, January 26: Proposed is a project for flood control consisting of the construction of a dike and drainage appurtenances on the north and south sides of Speed, N.C. Plans also call for relocation and channel excavation of 2,800 feet of Night Swamp, stream channel excavation of an additional 500 feet of both Knight Swamp and Longs Branch, snagging and clearing 8.3 miles of Deep Creek, and enlarging 2,800 feet of Deep Creek to about an 80 foot bottom width. Adverse impacts include increased turbidity, conversion of 31 acres of pine and hardwood to grass habitat, loss of 2 acres of swamp habitat, loss of stream habitat, and loss of .9 mile of natural stream section. (Wilmington District.) Comments made by: USCG, USDA, DOI, EPA, DOT, HEW, DOC, state and local agencies, and concerned citizens. (ELR Order No. 70109.)

Wando and Cooper Rivers Marine Terminal, Charleston County, South Carolina, January 28: The proposed project entails construction on the Wando and Cooper Rivers of a wharf, two barge slips, and four docks; dredging a channel and turning basin; and disposal of dredged material in the Morris Island and Daniel Island disposal areas. Adverse environmental impacts are conversion of 210 acres of forest, 30 acres of marsh, open field, and Wando River bottom to an industrialized area and 87 acres to road right-of-way; preemption of disposal areas; increased air and noise pollution; disruption of benthos in dredged areas; increased ship traffic and congestion on the Cooper River bridges; and temporary construction impacts. (Charleston District.) Comments made by: DOI, EPA, DOC, HEW, USCG, USDA, DOT. (ELR Order No. 70120.)

Supplement

Atchafalaya River and Bayous (S-2), Louisiana, January 28: This statement is the second supplement to a final EIS filed with CEQ in January, 1974. The project, Atchafalaya River and Bayous Chene, Boeuf, and Black, Louisiana, is located in the coastal area of south-central Louisiana. The purpose of the project is to enlarge existing navigation channels sufficiently to permit the passage of large offshore drilling rigs and related marine equipment between construction and repair facilities on Bayous Boeuf and Black, and drilling sites in the Gulf of Mexico. The recommended plan will require 350 acres for new channel in addition to the existing channel, and 7,208 acres for dredged material disposal. (New Orleans District.) (ELR Order No. 70121.)

ENVIRONMENTAL PROTECTION AGENCY

Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

Grain Elevator Industry, Performance Standards, January 24: Proposed are standards of performance for the grain elevator industry under section III of the Clean Air Act. The proposed standards limit emissions of particulate matter from the following 8 affected facilities and their related air pollution control devices: each truck unloading station, each railroad hopper car and boxcar unloading station, equipment at each barge and ship unloading station, all grain handling operations, each grain dryer, each truck loading station, each railroad hopper car and boxcar loading station, and each barge and ship loading station. Beneficial effects are anticipated. (ELR Order No. 70092.)

FEDERAL ENERGY ADMINISTRATION

Contact: Dr. Robert Stern, Director, Office of Environmental Impact, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue, NW, Washington, D.C. 20461, 202-566-9760.

Final

Cote Blanche Mine—SPR, St. Mary's County, Louisiana, January 24: Proposed is the implementation of the Strategic Petroleum Reserve, Title I, Part B, of the Energy Policy and Conservation Act of 1975. The Reserve will store 150 million barrels of oil by December of 1978 in the Early Storage Reserve (ESR), and 500 million barrels by 1982 under the entire program. The present action is part of the ESR and proposes to store 27 million barrels of oil in a conventional salt mine located at Cote Blanche Island in Louisiana. The proposed storage of oil at Cote Blanche Mine is to be implemented at an existing underground salt mine presently owned and operated by Domtar Chemicals, Inc. Adverse impacts on water and air will result. Comments made by: AHP, EPA, FPC, TVA, DOT, TREA, COE. (ELR Order No. 70099.)

Weeks Island Mine—SPR, Iberia County, Louisiana, January 24: Proposed is the implementation of the Strategic Petroleum Reserve (SPR), Title I, Part B, of the Energy Policy and Conservation Act of 1975. The Reserve will store 150 million barrels of oil by December of 1978 in the Early Storage Reserve (ESR), and 500 million barrels by 1982 under the entire program. The present action is part of the ESR and proposes storage of oil at Weeks Island Mine, to be implemented at an existing underground salt mine presently owned and operated by Morton Salt Company. Adverse effects include water quality degradation and the possibility of oil spillage. Comments made by: AHP, EPA, FPC, TVA, DOT, state and local

agencies, and concerned groups and persons. (ELR Order No. 70102.)

DEPARTMENT OF HUD

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

Interstate Land Sales, Revised Regulations, January 25: Proposed are revisions to the existing regulations of the Interstate Land Sales Registration program that deal with exemption, statement of record (registration), and property report requirements pursuant to the Interstate Land Sales Full Disclosure Act (15 USC 1701). The purpose of these regulations is to ensure the provision of essential information about a subdivision, through a Property Report, such that a prospective purchaser can make an informed judgment as to whether or not to purchase a lot in a subdivision. The regulations are expected to have a favorable environmental impact. (ELR Order No. 70105.)

Indian Oaks Subdivision, Will County, Illinois, January 24: Proposed is the provision of F.H.A. mortgage insurance 221(d)4 for 212 multi-family apartment units that comprise an intermediate stage of a planned unit development that already comprises 1,388 units and will eventually total 2,250 units. Few adverse effects are anticipated due to the fact that the natural environment has already been altered on the southern portion of the site, having been cleared years ago. The northern portion of the area is still wooded and will remain so even after development. (ELR Order No. 70104.)

Final

Devon-Air Estates, Coral Gables, Dade County, Florida, January 26: Proposed is the construction of Devon-Air Estates, a Planned Unit Development (P.U.D.) in Coral Gables, Florida. The 392-acre project consists of 378 single family detached units, 788 townhouse units, 1084 apartment rental units, a 20-acre park and school site, an a 20-acre lake. The first phase of construction will be 101 single family detached units on 32 acres in the northern central section of the P.U.D. Adverse impacts include increases in noise and dust levels, and loss of agricultural lands. Comments made by: DOI, EPA, USDA, HUD, state and local agencies, and concerned citizens. (ELR Order No. 70115.)

Supplement

Merced, Atwater, Castle AFB & Environs (S-1), Merced County, California, January 26: This statement supplements a draft EIS filed with CEQ in April, 1976, concerning Merced, Atwater, Castle Air Force Base and Environs. The statement includes a consideration of major areas acceptable for HUD programs, including mortgage insurance. Potential adverse impacts are the loss of open space and agricultural land, the potential underuse of infrastructure, and the exposure of a portion of new residential units to high levels of aircraft noise. (ELR Order No. 70111.)

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).

Final

Dallas, Tex.—Unsafe Structure Demolition, Dallas County, Texas, January 26: Proposed is a project aimed at demolishing vacant substandard structures throughout a designated target area in Dallas, Texas. These structures would be identified as a result of increased code enforcement activity in low and moderate income areas. The code enforcement segment of the proposed project is designed to encourage improvement and conservation of the existing housing stock in the target area. Long term impacts include depletion of the substandard vacant housing stock and a possible increase in housing costs. Comments made by: AHP, HUD, HEW, DOI, DOT, EPA, GSA, local and regional agencies, and concerned citizens. (ELR Order No. 70112.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Richard I. Chais, Chief, Section of Energy and Environment, Interstate Commerce Commission, Rm. 3373, 12th and Constitution Ave., N.W., Washington, D.C. 20423, 202-275-7692.

Final

Commercial Zones and Terminal Areas, January 24: Proposed is the institution of a rulemaking proceeding for the purpose of proposing an expansion of the population-mileage formula used to determine the commercial zones and terminal areas of motor carriers and freight forwarders. Approval of the proposed formula expansion may result in a decrease in the amount of interlining and mileage which is currently involved in performing service to shippers located in outlying metropolitan areas. Current patterns of metropolitan land use may be affected. Comments made by: EPA, DOI, and interested groups and persons. (ELR Order No. 70096.)

DEPARTMENT OF TRANSPORTATION

Contact: 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

Mount Pleasant Municipal Airport, Isabella County, Michigan, January 27: The project consists of improvements to the Mount Pleasant Municipal Airport to increase safety and efficient use of the airport. The project includes the extension of the runway 900 feet, the widening of two access taxiways to 40 feet, the construction of a 200×170 foot apron addition, the installation of lighting, the clearing of brush and trees, and the relocation of lighting equipment and controls to a new administration building. The project will result in increased noise and air pollution. Comments made by: DOT, DOC, USDA, COE, EPA, AHP. (ELR Order No. 70117.)

Roscoe Turner Field, Corinth Alcorn County, Mississippi, January 27: Proposed are various improvements at Roscoe Turner Field, Corinth, Mississippi. These improvement include runway extension and construction of three exit taxiways, one T-hangar, a General Aviation Terminal, one T-hangar access taxiway, and a 1,200 gallon capacity jet fuel storage. Seventy-six acres of land will be purchased for future expansion including acquisition of 3 homes. Runway extension will cause slightly increased air pollution and intermittent noise levels due to occasional operation by small "business jet" aircraft. Comments made by: EPA, DOI, DOT, HEW, HUD, and state and local agencies. (ERL Order No. 70119.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Roosevelt-Payson Hwy. (SR 188), Junction SR 88/87, Gila County, Arizona, January 26: Proposed is the reconstruction of approximately 12 miles of State Route 188 highway (a dirt and gravel road) beginning about 1,500 feet north of Theodore Roosevelt Dam and extending northerly to join existing pavement north of Ash Creek. The entire proposed construction area is within the boundary of the Tonto National Forest in southwestern Gila County, Arizona. The improvement work consists of construction of a paved two-lane roadway with usable shoulders, cross drainage facilities, and appropriate fencing. All of the improvement alternatives are located on Forest Service Roads determined to be Section 4(f) lands. (ELR Order No. 70107.)

Final

Bobby Jones Expressway, U.S. 1 to Savannah R., Richmond County, Georgia, January 25: Proposed is the construction of a 4.75-mile segment of U.S. 1, in Richmond County, Georgia. The 4-lane, limited access facility will begin at the present terminus of the Bobby Jones Expressway at U.S. Route 1 and extend to New Savannah Road. The corridor study area encompasses 11.4 square miles on a total of 6,601 acres of unincorporated land in Richmond County. Adverse impacts include loss of hardwoods in the project corridor and displacement of 12 homes and 4 businesses. (Region 4.) Comments made by: HUD, EPA, DOI, USDA, HEW, state and local agencies, and interested groups and persons. (ELR Order No. 70103.)

I-15 West Interchange, American Falls Dam Power County, Idaho, January 27: Proposed is Project RS-RSG-1721(19), which would improve State Highway 39 through the City of American Falls. The project begins at the east end of the American Falls Dam and ends at the I-15W interchange east of the city. Approximately 2 miles of urban secondary highway would be built with four lanes, curb and gutter, painted median and left turn bays in the urban area. Also, a new railroad crossing structure would be provided. Adverse impacts include displacement of residences and businesses, short term effects on air and noise quality and the conversion of private residential, commercial, and agricultural lands to highway use. (Region 10.) Comments made by: USDA, EPA, DOI, state and local agencies. (ELR Order No. 70118.)

US 31-E, Allen Co., Kentucky, Allen County, Kentucky, January 26: Proposed is the relocation of a portion of US 31-E from 2.2 miles North of the Tennessee State Line to the point of intersection with US 231 near the West City Limits of Scottsville. Negative impacts of the reconstruction of the 6.42 mile segment include the disruption and relocation of homes and businesses, grave relocations, hampered traffic movements during construction, and disruption of sanitary facilities. The project may also cause an increase in air and noise pollution. (Region 4.) Comments made by: HEW, HUD, EPA, DOC, DOI, COE, USDA, state and local agencies, and concerned citizens. (ELR Order No. 70108.)

Stolley Park Road, Grand Island, Hall County, Nebraska, January 26: The proposed improvement involves the upgrading and reconstruction of a segment of Stolley Park Road within Grand Island, Nebraska. The segment of street involved with the proposed improvement is approximately 0.75 mile long, beginning at Harrison Street and terminating at South Locust Street. Project plans also include construction of a storm sewer drainage system and construction of sidewalks on both sides of the entire length of street improvement. Little or no adverse effects are anticipated. (Region 7.) Comments made by: DOT, DOD, COE, USDA, HUD, DOI,

EPA, state and local agencies. (ELR Order No. 70106.)

DAVID W. TUNDERMAN,
Acting General Counsel.

[FR Doc.77-3803 Filed 2-3-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

AEROPROPULSION SYSTEM TEST FACILITY (ASTF)

Environmental Determination

Proposed action. Construction of the ASTF at the Arnold Engineering Development Center (AEDC) in Tennessee. The ASTF is a large and highly versatile test facility which will accurately simulate flight environments for development, certification, and qualification testing of large air-breathing engines of up to 100,000 pounds thrust. Individual test cells will be designed for subsonic turbofan and supersonic turbojet engines complete with control rooms and high speed data systems. Properly conditioned air is supplied to the test cells by large air compressors and exhausted through an array of coolers and scrubbers. The facility also includes support buildings to house ancillary equipment and operating personnel.

Environmental evaluation. A Candidate Environmental Impact Statement (CEIS) was prepared by Air Force Systems Command. After a careful review of this CEIS, it has been concluded that this action will not have a significant adverse effect on the quality of the human environment, it is not likely to be controversial with regard to its environmental impacts, and that a Draft Environmental Impact Statement (DEIS) need not be filed with the Council on Environmental Quality (CEQ). This determination is based on the following considerations:

a. *Water.* The AEDC Contingency Plan for Spills of Oils and Hazardous Substances has been developed to provide efficient, coordinated and effective action to minimize damage to the environment from accidental discharge of oil and hazardous substances.

(1) Hydrcarbon fuel spills from test engines will be less than 100 gallons per incident and will be contained in barometric wells and in an open channel cooling water ditch. The maximum estimated concentrations reaching the nearby stream through the cooling water discharge ditch is 0.05 parts per million. In the unlikely event of a larger spill the flow of the discharge ditch will be diverted into the retention reservoir.

(2) Lubricating oil spills will be contained in concrete dikes around major components and oil/water separators outside the diked areas. Safe disposal will be in accordance with the AEDC Industrial Waste Disposal Program.

(3) Hydraulic fluid spills will be caught by local containment devices and disposed of in an approved manner.

(4) Industrial solvents liquids will be stored in approved containers and disposed of in an approved manner.

(5) Ethylene Glycol concentration from the air supply cooler system likely to reach the ASTF drainage system is estimated to be less than 0.5 parts per million during intermittent periods of operation. Any major spills from equipment failure will be diverted into the retention reservoir.

(6) Thermal pollution is not significant. A temperature elevation of 3° F between intake and outfall for both the ASTF and existing requirements will be maintained by the use of a cooling tower. The 3° F rise in water supply is less than the 5.4° F permitted by the State of Tennessee.

b. *Air:* Emissions into the atmosphere from stationary sources will be controlled to meet the Federal and State standards. Emissions from the test engines, although not regulated by the State or EPA, will be discharged through coolers and scrubbers to minimize pollutants reaching the atmosphere. As more advanced tcehnology is incorporated into engine design, emissions will be further reduced. No hazardous air contaminants will be emitted from the ASTF with the proposed design.

c. *Noise:* Peak noise levels from the ASTF are expected to be approximately 3dB below peak noise levels of the Propulsion Wind Tunnel (PWT) currently in operation. With the planned operation of the quieter ASTF at night and the noisier PWT during the day (PWT now operates at night) there will be a decrease in the overall noise impact. Based upon average daily operations of these facilities, there will be a reduction of almost 4dB in the Day-Night Average Sound Level (L_{dn}) for the area affected by these facilities. With an L_{dn} 65 at 1.5 miles from the facilities, no complaints would be expected from the nearest inhabitants.

d. *Solid waste:* The average amount of solid waste material generated is estimated to be 6,500 pounds per year of metal scrap and shavings, and 4,400 cubic yards per year of waste paper, wood, cartons and plastics. The metal scrap and shavings will be collected, salvaged and sold. The other wastes will be disposed of in the AEDC sanitary landfill.

e. *Natural resources:* There are no adverse environmental effects associated with ASTF on fish, wildlife and recreation. The primary effect in this area is the consumption of energy. ASTF will require a 450 megawatt peak load which is 1.3% of the Tennessee Valley Authority (TVA) electric generating capacity. However, this peak load is estimated to be required less than 10% of the total ASTF running time, and at night when total demand on TVA capacity is lowest. There is more than adequate power available for ASTF. The average consumption of liquid hydrocarbon fuels in the test fuel system is estimated to be 600,000 gallons per year and in the air heater system 150,000 gallons per year.

f. *Socio-economic:* Permanent staffing of 384 persons arriving over a seven year period for operation of ASTF will have little impact on the local area (25 mile radius) other than increased income into the overall economy. The area housing market and school system can absorb this number. A more significant impact will result from the influx of persons associated with construction of ASTF. During the construction period approximately five years) it is estimated that approximately 1,100 personnel will be working at the construction site. Not all of these can be accommodated in the local area. However, within a 50 mile radius, housing and school capacity are available. A positive impact on the entire area will be the increased spending of income by the construction workers.

g. *Land use:* The facility will be constructed on land owned by the government within an existing operating industrial complex in accordance with the AEDC Master Plan. There are no historical, architectural or archeological environmental features on the site.

h. *Unresolved issues:* The CEIS addresses all known potential environmental effects, none of which are considered to be unresolved.

i. *Controversies:* The design of this facility is complete. Local and state area clearinghouse coordinations required by OMB circular A-95 have been completed. Further, the proposed project has been discussed with local authorities and civic groups and there is no known controversy due to environmental effects.

Copies of the Environmental Determination and the supporting documentation are available upon request to HQ USAF/PREV, Pentagon, Washington, D.C. 20330.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-3514 Filed 2-3-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

CHEMAGRO AGRICULTURAL DIVISION

[FRL 681-4; (PF59)]

Notice of Filing of Pesticide Petition

Chemagro Agricultural Division, Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120, has submitted a petition (PP 7F1895) to the Environmental Protection Agency which proposes that 40 CFR 180.183 be amended by establishing tolerances for residues of the insecticide (*0,0*-diethyl *S*[2(ethylthio) ethyl] phosphorodithioate) in or on the raw agricultural commodities alfalfa (hay) and clover (hay) at 3.6 parts per million (ppm); alfalfa (green), barley (green fodder and straw), beans (vines), clover (green), corn (fodder and forage), oats (green fodder and straw), peas (vines), sorghum (fodder and forage), and wheat (green fodder and straw) at 1 ppm; sugar beets (tops) at 0.5 ppm; meat, fat and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 ppm; and milk at 0.01 ppm. The proposed analytical method for determining residues is a thermionic emission gas chromathographic method. Notice of this submission is given pursuant to the provi-

sions of Section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 15, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202-426-9426. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: January 27, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-3447 Filed 2-3-77;8:45 am]

[FRL 681-3; PF60]

THOMPSON-HAYWARD CHEMICAL CO.

Notice of Filing of Pesticide Petition

Thompson-Hayward Chemical Co., PO Box 2383, Kansas City KS 66110, has submitted a petition (PP 7F1898) to the Environmental Protection Agency which proposes that 40 CFR 180 be amended by establishing a tolerance for residues of the insecticide N-[[(4-chlorophenyl) amino] carbonyl]-2,6-difluorobenzamide in or on the raw agricultural commodities cottonseed at 0.2 part per million (ppm), and eggs, milk, and the fat, meat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm. The proposed analytical method for determining residues is a procedure in which the insecticide is hydrolized to form 4-chloroaniline. The hydrolysis product is then derivatized with heptafluorobutyric anhydride to form 4-chloro - N - (heptafluorobutynl)-anilide which is detected by gas chromatography with a ^{63}Ni electron capture detector. Notice of this submission is given pursuant to the provisions of Section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 17, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202/426-9425. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: January 27, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-3446 Filed 2-3-77;8:45 am]

[FRL 681-5; OPP-33000/490]

NOTICE OF RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ("Interim Policy Statement"). On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing Section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94-140], and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new Section 3 regulations, and applications not subject to the new Section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under Section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, & 13—202/755-9315
PM 21 & 22—202/426-2454
PM 24—202/755-2196
PM 31—202/426-2635
PM 33—202/755-9041
PM 15, 16, & 17—202/426-9625
PM 23—202/755-1397
PM 25—202/426-2632
PM 32—202/426-9486
PM 34-202/426-9490

The Interim Policy Statement requires that claims for compensation be filed on or before April 5, 1977. With the exception of 2(c) applications not subject to the new Section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subect to protection under Section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Dated: January 27, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED (OPP-33000/490)

EPA File Symbol 150-LR. Anderson Chemical Co., Box 1041, Litchfield MN 55355. GERON 5. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl 68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 239–2186. Chevron Chemical Co., Ortho Div., Richmond CA 94804. ORTHO PARAQUAT CL. Active Ingredients: Paraquat dichloride (1,1'-dimethyl-4,4'-bipyridinium dichloride) 29.1%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA Reg. No. 239–2436. Chevron Chemical Co. ORTHENE INSECT SPRAY. Active Ingredients: Acephate (0,S-dimethyl acetylphosphoramidothiate) 15.6%. Method of Support: Application proceeds under 2(a) of interim policy. PM16.

EPA Reg. No. 279–765. FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY 14105. MALATHION 4 DUST INSECTICIDE. Active Ingredients: Malathion 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. Application for reregistration. PM16

EPA File Symbol 323–LL. J. I. Holcomb Mfg. Co., 4415 Euclid Ave., Cleveland OH 44103. HOLCOMB DISINFECTANT-FUNGICIDE DEODORIZER WITH ORGANIC SOIL TOLERANCE. Active Ingredients: Octyl decyl dimethyl ammonium chloride 5.0%; Didecyl dimethyl ammonium chloride 2.5%; Dioctyl dimethyl ammonium chloride 2.5%; Isopropyl alcohol 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 323–LU. J. I. Holcomb Mfg. Co. LIQUID SANITIZER. Active Ingredients: Alkyl (60% C14, 30% C16, 5% C12, 5% C18) Dimethyl Benzyl Ammonium Chlorides 1.28%; Alkyl (68% C12, 32% C14) Dimethyl Ethylbenzyl Ammonium Chlorides 1.28%; Sodium carbonate 2.00%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA File Symbol 334–UUA. Hysan Corp., 919 W. 38th St., Chicago IL 60609. LENOQUAT 44. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 5.00%; Essential oils 0.50%; Ethylenediamine tetraacetic acid, tetrasodium salt 0.38%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Revised offer to pay statement submitted. PM31

EPA Reg. No. 352–342. E. I. Du Pont De Nemours & Co., Inc., Biochemicals Dept., 6054 DuPont Bldg., Wilmington DE 19898. LANNATE METHOMYL INSECTICIDE FOR USE ON FIELD CORN AND POPCORN. Active Ingredients: Methomyl S-methyl N-[(methylcarbamoyl) oxy]thioacetimidate 90%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Amendment. PM12

EPA Reg. No. 352370. E. I. Du Pont De Nemours & Co., Inc. LANNATE L METHOMYL INSECTICIDE FOR USE ON FIELD CORN AND POPCORN. Active Ingredients: Methomyl S-methyl N-[(methylcarbamoyl) oxy] thioacetimidate 24%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Amendment. PM12

EPA Reg. No. 373–96. Residex Corp., 225 Terminal Ave., Clark NJ 07066. RESIDEX DURSBAN ROACH CONCENTRATE. Active Ingredients: Chlorpyrifos (O,O-diethyl O-(3,5,6-trichloro-2-pyridyl) phosphorothioate) 16.00%; Petroleum Distillate 73.96%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added uses. PM12

EPA Reg. No. 517–4. Rexall Drug Co., 3901 N. Kings Head Highway, St. Louis MO 63115. "PINE-CON" DISINFECTANT. Active Ingredients: Pine Oil 40%; Soap 10%; Isopropanol 10%. Method of Support: Application proceeds under 2(a) of interim policy. PM32

EPA Reg. No. 524–308. Monsanto Co., Agricultural Products, 800 N. Lindbergh Ave., St. Louis MO 63166. ROUND UP. Active Ingredients: Isopropylamine salt of Glyphosate 41.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA File Symbol 876–ELL. Velsicol Chemical Corp., 341 E. Ohio St., Chicago IL 60611. BANVEL 2S HERBICIDE. Active Ingredients: Sodium salt of dicamba (3,6-dichloro-o-anisic acid) 23.32%; Sodium salts of related acids 3.18%. Method of Support: Application proceeds under 2(b) of interim policy. PM25

EPA File Symbol 904–ELN. B. G. Pratt Div., Gabriel Chemicals Ltd., 204 21st Ave., Paterson NJ 07509. ELM TREE NOCULATE. Active Ingredients: Methyl 2-benzimidazolecarbamate phosphate 0.7%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA Reg. No. 1109–25. Cities Service Co., 3445 Peachtree Rd., N.E., Atlanta GA 30302. CITCOP 4E. Active Ingredients: Copper Salts of Fatty & Rosin Acids 48%. Method of Support: Application proceeds under 2(a) of interim policy. PM22

EPA Reg. No. 1117–8. Fort Dodge Laboratories, Div. Amer. Home Products Corp., Box 518, Ft. Dodge IA 50501. DEMODEK. Active Ingredients: Benzyl benzoate 40%; Terpineol 1%. Method of Support: Application proceeds under 2(b) of interim policy. PM17

EPA File Symbol 1362–RG. Dixie Disinfectant Co., 3420 Chelsea, Memphis TN 38108. LEMON-AIR DISINFECTANT DEODORANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.00%; Essential oils 0.25%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 1455–ET. Pro-Tex-All Co., Inc., 223 N.W. Second St., Evansville IN 47708. QUATROSAN. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 1597–RU. Omaha Compound Co., 21st & Nicholas Sts., Omaha NE 68102. HY-GEE-NITE ODORLESS SANITIZER. Active Ingredients: Alkyl (C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chloride 10.00%; Ethanol 2.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 1674–11. Aborn Chemical Industries, Inc., 168 "A" St., Boston MA 02210. ARK RESIDUAL INSECTICIDE. Active Ingredients: (O,O-Diethyl O-(2 isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate 0.500%; Pyrethrins 0.052%; Piperonyl Butoxide Technical 0.261%; Petroleum Distillate 98.608%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA Reg. No. 1677–39. Economics Laboratory, Inc., Osborn Bldg., St. Paul MN 55102. MIKRO-BAC. Active Ingredients: Isopropanol 9.9%; Potassium o-phenylphenate 4.9%; Potassium o-benzyl-p-chlorophenate 4.9%; Sodium dodecylbenzene sulfonate 2.2%; Tetrasodium ethylenediaminetetraacetate 1.9%; Potassium p-t-amylphenate 1.0 Sodium xylene sulfonate 0.8%. Method of Support: Application proceeds under 2 (b) of interim policy. PM32

EPA File Symbol 1812–ENE. Parramore & Griffin, PO Box 1847, Valdosta GA 31601. DIPEL 150 DUST (BACILLUS THURINGIENSIS). Active Ingredients: Bacillus thuringiensis, Berliner, Potency of 320 International Units per mg. (at least 0.5 billion viable spores per g.) 0.064%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA File Symbol 1964–RO. New South Manufacturing Co., PO Box 10025, Atlanta GA 30319. MEGA-CIDE NPR 9.0. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium Carbonate 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 3743–345. Southern Agricultural Chemicals, Inc., PO Drawer 527, Kingstree SC 29556. BIG 'D' GRANULES. Active Ingredients: 0,0 Diethyl-0-(p-methylsulfinyl) phenyl phosphorothioate 10.0%; 0,0-Diethyl S-(2-ethylthio)ethyl) phosphorodithioate 5.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM15

EPA File Symbol 4450–GE. Chemex Chemicals & Coatings Co., Inc., PO Box 5072, Tampa FL 33675. CHEMEX FLYING & CRAWLING INSECTICIDE. Active Ingredients: (5-Benzyl-3-furyl)methyl 2,2-dimethyl - 3 - (2-methylpropenyl) cyclopropanecarboxylate 0.350%; Related compounds 0.048%; Aromatic petroleum hydrocarbons 0.464%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 4450–35. Chemex Chemicals & Coatings Co., Inc. CHEMEX YARD & PATIO INSECTICIDE FOGGER. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.250%; Related compounds 0.034%; Aromatic petroleum hydrocarbons 0.332%. Method of Support: Application proceeds under 2(c) of interim policy. PM17

EPA Reg. No. 4581–318. Penwalt Corp., Three Parkway, Philadelphia PA 19102. DECCO WT–53 SOLUTION. Active Ingredients: Sodium orthophenylphenate [anhydrous] 14.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM32

EPA File Symbol 4643–GU. Dearborn Chemical Div., Lake Zurich IL 60047. DEARCIDE 725. Active Ingredients: Poly (Oxyethylene (Dimethylimino) Ethylene (Dimethylimino) Ethylene Dichloride) 28.5%. Method of Support: Application proceeds under 2 (b) of interim policy. PM34

EPA File Symbol 4822–RLT. S. C. Johnson & Son, Inc., 1525 Howe St., Racine WI 53403 U.S.A. JOHNSON INSECT REPELLENT "R69". Active Ingredients: 3-Acetyl-2-(2,6-dimethyl-5-heptenyl)-oxazolidine 93%; Related compounds 7%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 4882–RLN. S. C. Johnson & Son, Inc. JOHNSON REPELLENT JACKET. Active Ingredients: 3-Acetyl-2-(2,6-dimethyl-5-heptenyl) oxazolidine 23%; Related Compounds 0.8%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 5366–I. Conway Soap Products Co., 255 W. 79th St., Chicago IL 60620. CONWAY'S C & S CLEANER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium

chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 6720-148. Southern Mill Creek Products Co., Inc., Box 1096, Tampa FL 33601. DURSBAN 1E INSECTICIDE. Active Ingredients: Chlorpyrifos (0,0-diethyl 0-3,5,6,-trichloro-2-pyridyl) phosphorothioate) 12.9%; Aromatic petroleum derivative solvent 78.9%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 7467-LR. Valco Chemical Div., PO Box 1310, Harlingen TX 78550. CLIMAX-3. Active Ingredients: Sodium Chlorate 28%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA Reg. No. 7969-45. BASF Wyandotte Corp., 100 Cherry Hill, PO Box 181, Parsippany NJ 07054. BASAGRAN. Active Ingredients: Sodium salt of bentazon 42.0%. Method of Support: Application proceeds under 2 (b) of interim policy. PM25

EPA Reg. No. 7969-46. BASF Wyandotte Corp. BASALIN. Active Ingredients: Fluchloralin [N-(2-chloroethyl)-a,a,a-trifluoro-2,6-dinitro - N - propyl - p - toluidine] 43.0%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA File Symbol 8075-T. Allen Chemical Co., 3235 N.W. 37th St., Miami FL 33142. ALCO TOWER ALGAECIDE #11. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylenedichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 8901-1. Kennecott Copper Corp., Spec. Prod. Div., PO Box 45539, Houston, TX 77045. KOCIDE 101. Active Ingredients: Cupric Hydroxide 77%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 9782-GR. Woodbury Chemical Co., PO Box 4319, Princeton FL 33030. PHOSDRIN 4-E. Active Ingredients: Alpha Isomer of 2-Carbomethoxy-1-Methylvinyl Dimethyl Phosphate 28.3%; Related Compounds 18.8%; Aromatic Petroleum Derivative Solvent 47.9%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

EPA File Symbol 10485-GE. United Chemical Corp. of New Mexico, 601 N. Leech, PO Box 1499, Hobbs NM 88240. ALPHA 544. Active Ingredients: 2,2-Dibromo-3-nitrilopropionamide 20%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 10806-17. Contact Industries, Inc., 641 Dowd Ave., Elizabeth NJ 07201. ANIMAL GUARD. Active Ingredients: Pyrethrins 0.20%; Piperonyl butoxide, technical 0.40%; N-octyl bicycloheptene dicarboximide 0.67%; Di-n-propyl isocinchomeronate 1.33%; Petroleum distillate 62.40%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 10827-ET. Industrial Solvents, Div. of Chemical Specialties, Inc., San Marcos TX 78666. PSY-KILL FILTER FLY CONCENTRATE. Active Ingredients: Phoedrin 5%; Petroleum hydrocarbon 87%. Method of Support: Application proceeds under 2(b) of interim policy. PM16

[FR Doc.77-3448 Filed 2-3-77;8:45 am]

[FRL 682-2; PP6G1839/T89]

ESTABLISHMENT OF A TEMPORARY TOLERANCE

Methyl 2-[4-(2',4'-dichlorophenoxy) phenoxy] propanoate

American Hoechst Corp., Agricultural Chemicals Division, Route 202-206 North, Somerville, N.J. 08876, has submitted a pesticide petition (PP 6G1839) to the Environmental Protection Agency (EPA). This petition requests that a temporary tolerance be established for combined residues of the herbicide methyl 2-[4-(2', 4'-dichlorophenoxy) phenoxy] propanoate and its metabolite methyl 2-[4-(2',4'-dichlorophenoxy) phenoxy] propionic acid (determined as the herbicide) in or on the raw agricultural commodity soybeans (beans only) at 0.05 part per million (ppm).

Establishment of this temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act.

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerance is adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerance will protect the public health. The temporary tolerance is established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. American Hoechst Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires January 31, 1978. Residues not in excess of 0.05 ppm remaining in or soybeans (beans only) after this expiration date will not be considered to be actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

STATUTORY AUTHORITY: Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).

Dated: January 31, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-3706 Filed 2-3-77;8:45 am]

[FRL 682-2, PP5G1593/T88]

PESTICIDE PROGRAMS

Extension of a Temporary Tolerance Ethanedial Dioxime

On January 30, 1976, the Environmental Protection Agency (EPA) gave notice (41 FR 4637) that in response to a pesticide petition (PP5G1593) submitted to the Agency by Ciba-Geigy Corp., Agricultural Division, PO Box 11422, Greensboro NC 27409, a temporary tolerance was established for residues of the plant growth regulator ethanedial dioxime in or on the raw agricultural commodity oranges at 0.1 part per million (ppm).

This temporary tolerance is scheduled to expire January 26, 1977. Ciba-Geigy Corp. has requested a one-year extension of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of an experimental use permit that is being extended concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.)

The scientific data reported and all other relevant material have been evaluated, and it has been determined that an extension of the temporary tolerance will protect the public health. Therefore, the temporary tolerance is extended on condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Ciba-Geigy Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires November 30, 1977. Residues not in excess of 0.1 ppm remaining in or on oranges after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

STATUTORY AUTHORITY: Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a (j)].

Dated: January 28, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc.77-3707 Filed 2-3-77;8:45 am]

[FRL 682-3]

PROPOSED STANDARDS OF PERFORMANCE FOR GRAIN ELEVATOR INDUSTRY

Availability of Draft 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 draft environmental impact statement (DEIS) for the Proposed Standards of Performance for Grain Elevator Industry.

Standards of performance for new and modified grain elevators are being proposed under authority of section 111 of the Clean Air Act. Particulate matter, the only significant pollutant emitted, will be controlled from these sources.

This DEIS was transmitted to the Council on Environmental Quality (CEQ) on January 24, 1977. In accordance with CEQ's notice of availability, comments are due on March 21, 1977. Copies of the DEIS are available for review and comment from: Environmental Protection Agency, Public Information Center PM-215, Washington, DC 20460 (telephone: 202-755-0707).

Copies of the DEIS 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, D.C. 20460.

Information copies of the DEIS are available at cost (10 cents/page) from the Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036. Please reference ELR No. 70092.

Copies of the DEIS have been forwarded to various Federal, State, and local agencies, and interested individuals.

Dated: January 31, 1977.

REBECCA W. HANMER,
Director,
Office of Federal Activities.

[FR Doc.77-3708 Filed 2-3-77;8:45 am]

[FRL 682-7]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to City of Philadelphia

On December 23, 1971 (36 FR 24876), March 8, 1974 (39 FR 9308), August 6, 1975 (40 FR 33152), January 15, 1976 (41 FR 2232, 41 FR 2332), and January 26, 1976 (41 FR 3826), pursuant to section 111 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) promulgated regulations establishing standards of performance for a total of twenty-two categories of new stationary sources (NSPS). On April 6, 1973 (38 FR 8820), pursuant to section 112 of the Clean Air Act, as amended, the Administrator promulgated national emission standards for three hazardous air pollutants (NESHAPS). Sections 111(c) and 112(d) direct the Administrator to delegate his authority to implement and enforce NSPS and NESHAPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On September 20, 1976, Lewis K. Polk, Acting Commissioner, Philadelphia Department of Public Health, submitted to the EPA Regional Office a request for delegation of authority. Prior thereto, on August 31, 1976, Maurice K. Goddard, Secretary of the Pennsylvania Department of Environmental Resources, recommended that the delegation be made. Included in the request were copies of and references to pertinent Pennsylvania statutes, and the Philadelphia Home Rule Charter, Air Management Code, and Regulations, which provide the City with the requisite authority to enforce the NSPS and NESHAPS. After a thorough review of that request, the Regional Administrator has determined that for the source categories set forth in paragraphs A and B of the following official letter to Lewis K. Polk, Acting Commissioner, Philadelphia Department of Public Health, delegation is appropriate subject to the conditions set forth in paragraphs 1 through 10 of that letter:

CERTIFIED MAIL RETURN RECEIPT REQUESTED
September 30, 1976.

HONORABLE LEWIS D. POLK,
Acting Commissioner, City of Philadelphia, Department of Public Health, 540 Municipal Services Building, Fifteenth Street and JFK Boulevard, Philadelphia, Pennsylvania.

Re: Delegation of Authority of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants pursuant to sections 111(c) and 112(d), Clean Air Act, as amended.

DEAR DR. POLK: This is in response to your letter of September 20, 1976, requesting delegation of authority for implementation and enforcement of the Standards of Performance for New Stationary Sources (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the City of Philadelphia Department of Public Health.

We have reviewed the pertinent laws of the Commonwealth of Pennsylvania, the Philadelphia Air Management Code and Regulations, its Home Rule Charter, and 40 CFR 52.2024(b), and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NSPS and NESHAPS regulations by the Philadelphia Department of Public Health through its Air Management Services. Further, we have received and reviewed a letter from Maurice K. Goddard, Secretary, Pennsylvania Department of Environmental Resources, recommending that you be delegated the authority to enforce NSPS and NESHAPS. Therefore, we hereby delegate authority to administer and enforce the NSPS and NESHAPS regulations to the Philadelphia Department of Public Health through its Air Management Services, as follows:

A. The Philadelphia Department of Public Health through its Air Management Services shall have authority for all sources located in the City of Philadelphia subject to the Standards of Performance for New Stationary Sources promulgated in 40 CFR Part 60 as of the date of the request for delegation. The 22 categories of new sources covered by the delegation are fossil fuel-fired steam generators; incinerators; portland cement plants; petroleum refineries; nitric acid plants; sulfuric acid plants; asphalt concrete plants; storage vessels for petroleum liquids, secondary lead smelters; secondary brass and bronze ingot production plants; iron and steel plants; sewage treatment plants; primary copper smelters; primary zinc smelters; primary lead smelters; primary aluminum reduction plants; wet process phosphoric acid plants; superphosphoric acid plants; diammonium phosphate plants; triple superphosphate plants; granular triple superphosphate storage facilities; and coal preparation plants.

B. The Philadelphia Department of Public Health through its Air Management Services shall have authority for all sources located in the City of Philadelphia subject to the National Emission Standards for Hazardous Air Pollutants promulgated in 40 CFR Part 61 as of the date of the request for delegation. The three hazardous air pollutants covered by the delegation are asbestos, beryllium and mercury.

This delegation is based upon the following conditions:

1. Quarterly reports will be submitted to EPA by the City of Philadelphia, Department of Public Health through its Air Management Services, including:

(A) For New Source Performance Standards: (1) Sources determined to be applicable during that quarter;

(2) Applicable sources which started operation during that quarter or the start of operations prior to that quarter which have not been previously reported;

(3) The compliance status of the above, including the summary sheet from the compliance test(s); and

(4) Any legal actions which pertain to NSPS sources.

(B) For National Emission Standards for Hazardous Air Pollutants: (1) NESHAPS sources granted a permit to construct;

(2) NESHAPS sources inspected during that quarter and their compliance status (except under § 61.22 (d) and (e));

(3) the number of inspections under § 61.22(d) and (e); and

(4) the requirements of (A) above.

2. Enforcement of the NSPS and NESHAPS regulations in the City of Philadelphia will be the primary responsibility of the Philadelphia Department of Public Health through its Air Management Services. Where the Philadelphia Department of Public Health through its Air Management Services determines that such enforcement is not feasible and so notifies EPA, or where the Philadelphia Department of Public Health through its Air Management Services acts in a manner inconsistent with the terms of this delegation, EPA will exercise its concurrent enforcement authority pursuant to section 113 of the Clean Air Act, as amended, with respect to sources within the City of Philadelphia subject to NSPS and NESHAPS.

3. Acceptance of this delegation of presently promulgated NSPS and NESHAPS does not commit the City of Philadelphia to request or accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the Department's request of September 20, 1976.

4. The Philadelphia Department of Public Health through its Air Management Services

will at no time grant a waiver of compliance under the NESHAPS regulations.

5. This delegation to the Philadelphia Department of Public Health through its Air Management Services does not include the authority to implement and enforce NSPS and NESHAPS for sources owned or operated by the United States which are located in the City. This condition in no way relieves any Federal facility from meeting the requirements of 40 CFR Parts 60 and 61.

6. The Philadelphia Department of Public Health through it Air Management Services will not grant a variance from compliance with the applicable NSPS or NESHAPS regulations if such variance delays compliance with the Federal Standards (Parts 60 and 61). Should the Philadelphia Department of Public Health through its Air Management Services grant such a variance, EPA will consider the source receiving the variance to be in violation of the applicable Federal regulation and may initiate enforcement action against the source pursuant to section 113 of the Clean Air Act. The granting of such variances by the Philadelphia Department of Public Health through its Air Management Services shall also constitute grounds for revocation of delegation by EPA.

7. The Philadelphia Department of Public Health through its Air Management Services, and EPA, will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the interpretation of applicable regulations. In instances where there is a conflict between a Department interpretation and a Federal interpretation of applicable regulations, the Federal interpretation must be applied if it is more stringent than that of the Department.

8. If at any time there is a conflict between a Department regulation and a Federal regulation (40 CFR Part 60 or 61), the Federal regulation must be applied if it is more stringent than that of the Department. If the Department does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

9. The Philadelphia Department of Public Health through its Air Management Services will utilize the methods specified in 40 CFR Parts 60 and 61, in performing source tests pursuant to the regulations.

10. If the Regional Administrator determines that a Department program for enforcing or implementing the NSPS or NESHAPS regulation is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Philadelphia Department of Public Health, Air Management Services.

A Notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The Notice will state, among other things, that, effective immediately, all reports required pursuant to the Federal NSPS and NESHAPS by sources located in the City of Philadelphia should be submitted to the City of Philadelphia Department of Public Health, Air Management Services, 801 Arch Street, Philadelphia, Pennsylvania 19107, in addition to EPA Region III. Any such reports which have been or may be received by EPA, Region III, will be promptly transmitted to the Philadelphia Department of Public Health, Air Management Services.

Since this delegation is effective immediately, there is no requirement that the Department notify EPA of its acceptance. Unless EPA receives from the Department written notice of objections within 10 days of receipt of this letter the Philadelphia Department of Public Health through its Air Management Services will be deemed to have accepted all of the terms of the delegation.

Sincerely,

DANIEL J. SNYDER III,
Regional Administrator.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified Lewis D. Polk, Acting Commissioner, Philadelphia Department of Public Health, on September 30, 1976, that authority to implement and enforce the standards of performance for new stationary sources and national emission standards for hazardous air pollutants was delegated to the City of Philadelphia.

Copies of that request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region III Office, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

Effective immediately, all reports required pursuant to the standards of performance for new stationary sources listed in the above letter and the national emission standards for hazardous air pollutants should be submitted to the Philadelphia Department of Public Health, Air Management Services, 801 Arch Street, Philadelphia, Pennsylvania 19107, with copies to EPA, Region III. However, reports required pursuant to 40 CFR 60.7(c) (excess emissions and malfunctions) should be sent to the Philadelphia Department of Public Health, Air Management Services, only.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended, 42 U.S.C. 1857c-6 and 7.

Dated: January 25, 1977.

A. R. MORRIS,
Acting Regional Administrator.

[FR Doc.77-3712 Filed 2-3-77;8:45 am]

[FRL 682-8]

NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Delegation of Authority to Commonwealth of Pennsylvania

On April 6, 1973 (38 FR 8820), pursuant to section 112 of the Clean Air Act, as amended, the Administrator of the Environmental Protection Agency (EPA) promulgated national emission standards for three hazardous air pollutants (NESHAPS). Section 112(d) directs the Administrator to delegate his authority to implement and enforce NESHAPS to any State which has submitted adequate procedures. Nevertheless, the Administrator retains concurrent authority to implement and enforce the standards following delegation of authority to the State.

On August 4, 1976, Maurice K. Goddard Secretary of the Pennsylvania Department of Environmental Resources, submitted to the EPA Region III Office a request for delegation of authority. Included in that request was a copy of the Commonwealth of Pennsylvania regulations which incorporate by reference the Federal emission standards and testing procedures set forth in 40 CFR Part 61. Those regulations do not adopt the procedures for waiver of compliance and waiver of emission tests published in the Code of Federal Regulations, Title 40, Part 61, Subpart A, §§ 61.10, 61.11 and 61.13, and provide that all requests for any such waiver shall be addressed to EPA, who retains all authority to grant such waivers. However, the regulations provide that waivers granted by EPA under 40 CFR 61.11 and 61.13 will be recognized by the Department in administering its regulations.

Also included were references to Pennsylvania statutes and regulations which provide the Commonwealth with the requisite authority to enforce NESHAPS. After a thorough review of that request, the Regional Administrator has determined that for the source categories set forth in the following official letter to Secretary Goddard, delegation is appropriate subject to the conditions set forth in that letter:

CERTIFIED MAIL RETURN
RECEIPT REQUESTED
September 30, 1976

HON. MAURICE K. GODDARD,
Secretary, Pennsylvania Department of Environmental Resources, P.O. Box 1467, Harrisburg, Pennsylvania.

Re: Delegation of Authority of National Emission Standards for Hazardous Air Pollutants pursuant to section 112(d), Clean Air Act, as amended.

DEAR SECRETARY GODDARD: This is in response to your letter of August 24, 1976, requesting delegation of authority for implementation and enforcement of the National Emission Standards for Hazardous Air Pollutants (NESHAPS) to the Commonwealth of Pennsylvania for all areas of the Commonwealth except for Allegheny and Philadelphia Counties, excluded by Section 12 of the Pennsylvania Air Pollution Control Act, 35 P.S. §§ 4001 et seq.

We have reviewed the pertinent laws of the Commonwealth and the rules and regulations of the Pennsylvania Department of Environmental Resources and have determined that they provide an adequate and effective procedure for implementation and enforcement of the NESHAPS regulations by the Department of Environmental Resources through its Bureau of Air Quality and Noise Control, and the Commonwealth. Therefore, we hereby delegate authority to administer and enforce the NESHAPS regulations to the Commonwealth of Pennsylvania, and the Commonwealth shall have authority for all sources located in the Commonwealth of Pennsylvania (excepting Allegheny and Philadelphia Counties) subject to the national emission standards for hazardous air pollutants promulgated in 40 CFR Part 61 as of the date of the request for delegation. The three hazardous air pollutants covered by the delegation are asbestos, beryllium and mercury.

This delegation is based upon the following conditions:

1. Quarterly reports will be submitted to EPA by the Pennsylvania Department of Environmental Resources including:

(a) NESHAPS sources in areas affected by this delegation, granted a permit to construct;

(b) NESHAPS sources in areas affected by this delegation, inspected during that quar-

ter and their compliance status (except under § 61.22(d) and (e) [)]; and

(c) the number of inspections under § 61.22(d) and (e).

2. Enforcement of the NESHAPS regulations in areas of the Commonwealth of Pennsylvania affected by this delegation will be the primary responsibility of the Pennsylvania Department of Environmental Resources. Where the Department determines that such enforcement is not feasible and so notifies EPA, or where the Department acts in a manner inconsistent with the terms of this delegation, EPA will exercise its concurrent enforcement authority pursuant to section 113 of the Clean Air Act, as amended, with respect to sources affected by this delegation within the Commonwealth of Pennsylvania and subject to NESHAPS.

3. Acceptance of this delegation of presently promulgated NESHAPS does not commit the Commonwealth of Pennsylvania to request or accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the Commonwealth's request of August 24, 1976.

4. The Pennsylvania Department of Environmental Resources will at no time grant a waiver of compliance under the NESHAPS regulations.

5. This delegation to the Commonwealth of Pennsylvania does not include the authority to implement and enforce NESHAPS for sources owned or operated by the United States which are located in areas of the Commonwealth affected by this delegation. This condition in no way relieves any Federal facility from meeting the requirements of 40 CFR Part 61.

6. The Pennsylvania Department of Environmental Resources will not grant a variance from compliance with the applicable NESHAPS regulations if such variance delays compliance with the Federal Standards (Part 61). Should the Pennsylvania Department of Environmental Resources grant such a variance, EPA will consider the source receiving the variance to be in violation of the applicable Federal regulation and may initiate enforcement action against the source pursuant to section 113 of the Clean Air Act. The granting of such variance by the Department shall also constitute grounds for revocation of delegation by EPA.

7. The Pennsylvania Department of Environmental Resources and EPA will develop a system of communication sufficient to guarantee that each office is always fully informed regarding the interpretation of applicable regulations. In instances where there is a conflict between a Commonwealth interpretation and a Federal interpretation of applicable regulations, the Federal interpretation must be applied if it is more stringent than that of the Commonwealth.

8. If at any time there is a conflict between a Commonwealth regulation and a Federal regulation (40 CFR Part 61), the Federal regulation must be applied if it is more stringent than that of the Commonwealth. If the Commonwealth does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

9. The Pennsylvania Department of Environmental Resources will utilize the methods specified in 40 CFR Part 61 in performing source tests pursuant to the regulations.

10. If the Regional Administrator determines that the Commonwealth's program for enforcing or implementing a NESHAPS regulation in areas affected by this delegation is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Pennsylvania Department of Environmental Resources.

A Notice announcing this delegation will be published in the FEDERAL REGISTER in the near future. The Notice will state, among other things, that, effective immediately, all reports required pursuant to the Federal NESHAPS by sources located in affected areas of the Commonwealth of Pennsylvania should be submitted to the Pennsylvania Department of Environmental Resources, Bureau of Air Quality and Noise Control, P.O. Box 2063, Harrisburg, Pennsylvania 19120, in addition to EPA Region III. Any such reports which have been or may be received by EPA, Region III, will be promptly transmitted to the Pennsylvania Department of Environmental Resources.

Since this delegation is effective immediately, there is no requirement that the Commonwealth notify EPA of this acceptance. Unless EPA receives from the Commonwealth written notice of objections within 10 days of receipt of this letter, the Commonwealth of Pennsylvania will be deemed to have accepted all of the terms of the delegation.

Sincerely yours,

DANIEL J. SNYDER III,
Regional Administrator.

Therefore, pursuant to the authority delegated to him by the Administrator, the Regional Administrator notified Maurice K. Goddard, Secretary of the Pennsylvania Department of Environmental Resources, on September 30, 1976, that authority to implement and enforce the national emission standards for hazardous air pollutants was delegated to the Commonwealth of Pennsylvania.

Copies of that request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region III Office, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

Effective immediately, all reports required pursuant to the national emission standards for hazardous air pollutants should be submitted to the Pennsylvania Department of Environmental Resources, Bureau of Air Quality and Noise Control, P.O. Box 2063, Harrisburg, Pennsylvania 17120, with copies to EPA, Region III.

This Notice is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 1857c-7.

Dated: January 25, 1977.

A. R. MORRIS,
Acting Regional Administrator.

[FR Doc.77-3713 Filed 2-3-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 77R-9]

ALABAMA CITIZENS FOR RESPONSIVE PUBLIC TELEVISION, INC. AND ALABAMA EDUCATIONAL TELEVISION COMMISSION

Memorandum Opinion and Order Enlarging Issues

Adopted: January 21, 1977.

Released: February 4, 1977.

In re applications of Alabama Citizens for Responsive Public Television, Inc. and Alabama Educational Television Commission for permits to construct educational television broadcast facilities on: Channel #10 Birmingham, Alabama, Channel #41 Demopolis, Alabama, Channel #26 Montgomery, Alabama; Docket No. 20675, File Nos. BPET-533, BPET-534, BPET-535; Docket No. 20676, File Nos. BPET-517, BPET-518, BPET-524.

1. The above-captioned mutually exclusive applications were designated for hearing by Commission Memorandum Opinion and Order, 41 FR 18915, published May 7, 1976. The Review Board now has before it a petition to enlarge and modify issues, filed May 24, 1976, by the Alabama Educational Television Commission (AETC), which requests modification and enlargement of the designated financial issue, addition of site availability, lack of candor, Section 1.580, and technical qualifications issues against Alabama Citizens for Responsive Public Television, Inc. (Alabama Citizens or applicant), and comparative issues regarding in-school instructional programming, facilities and staffing.[1]

SITE AVAILABILITY AND LACK OF CANDOR ISSUES

2. First, in support of its request for a site availability issue with respect to Alabama Citizens' proposed Channel 10, Birmingham site,[2] AETC submits a letter dated July 24, 1975, from Mr. John L. McClay, an official of Taft Broadcasting Company (Taft), which allegedly now controls the site. Therein, McClay informs Alabama Citizens that it must obtain AETC's approval as a "condition precedent" to Alabama Citizens' use of the existing Channel 10 facilities if Alabama Citizens is the successful applicant. In addition, AETC relies on a letter dated September 26, 1975, in which AETC's president Ned Butler advised Alabama

[1] Other related pleadings before the Board for consideration are: (a) opposition, filed July 19, 1976, by Alabama Citizens; (b) comments filed July 19, 1976, by the Broadcast Bureau; (c) reply, filed August 6, 1976, by AETC; (d) motion to strike (c), filed September 8, 1976, by Alabama Citizens; and (e) opposition to (d), filed September 10, 1976, by AETC. In its reply pleading, AETC withdraws its request for a Rule 1.580 issue. AETC indicates that it is taking this action because an employee with its Washington counsel had overlooked evidence of Alabama Citizens' compliance with Section 1.580 of the Commission's Rules contained in Alabama Citizens' application. The Review Board has examined Alabama Citizens' application and agrees that it contains evidence of the applicant's compliance with the subject rule. Accordingly, there will be no further consideration of that issue in this document. Furthermore, we will deny Alabama Citizens' motion to strike. The motion was filed more than a month after AETC's reply and Alabama Citizens has not shown or even alleged any reason for the delay. Moreover, even if we were to disregard the matters allegedly raised for the first time in AETC's reply, this would not dispose of the serious questions properly raised by AETC's petition.

[2] Alabama Citizens' application indicates that it proposes to rely on the antenna and transmitter sites currently being leased by AETC in Birmingham, Montgomery, and Demopolis.

Citizens that AETC would "neither sell, lease, nor make available on any other basis" to Alabama Citizens the AETC's transmission and antenna sites and facilities, which are currently used for Channel 10, Birmingham, Channel 26, Montgomery, and Channel 41, Demopolis. Under these circumstances, petitioner concludes (citing *Catamount Broadcasters, Inc.*, 55 FCC 2d 256, 34 RR 2d 1546 (Rev. Bd. 1975); *RKO General, Inc.*, 46 FCC 2d 246, 29 RR 2d 1444 (Rev. Bd. 1974); and *CBS, Inc.*, 49 FCC 2d 1214, 32 RR 2d 271 (Rev. Bd. 1974)) that Alabama Citizens lacks reasonable assurance of the availability of its proposed Birmingham site. Next, in support of the requested lack of candor issue, AETC refers to Alabama Citizens' November 11, 1975 opposition to AETC's October 22, 1975 petition to deny wherein Alabama Citizens stated that "based on information currently available, it * * * is still reasonable * * * to assume that some or all of these antenna sites will be available to Alabama Citizens if they prevail in the comparative proceeding." This statement is the basis for an issue, petitioner maintains, because the applicant withheld from the Commission the vital facts, known to its principals since receipt of the McClay and Butler letters that Taft would require AETC's consent to lease the Birmingham site and Alabama Citizens knew that no such consent would be forthcoming. In support, petitioner relies on *WIOO, Inc.*, 40 FCC 2d 643, 27 RR 2d 204 (Rev. Bd. 1973); and *Marbro Broadcasting Co.*, 4 FCC 2d 290, 8 RR 2d 51 (Rev. Bd. 1966). Turning to the proposed Montgomery and Demopolis antenna and transmitter sites, AETC submits certified copies of new ground leases, executed in January 1976, from the respective lessors, the Public Athletic Board of the City of Montgomery, and Marengo County (Demopolis). According to AETC, under the terms of these new leases the respective antenna and transmitter sites will remain under the exclusive control of AETC for five years after the sites have ceased to be used for AETC's studios and transmission towers, should this ever occur.[3] Consequently, AETC reasons that these leases will give it control over its antenna sites even if it is unsuccessful in the comparative hearing and that, therefore, when considered with the above-noted letter of September 26, 1975, they raise a serious question as to whether the applicant has reasonable assurance that its proposed Montgomery and Demopolis antenna sites will be available. The Bureau supports addition of a site availability issue but opposes addition of a lack of candor issue.

3. Turning first to the Demopolis and Montgomery sites, Alabama Citizens argues in opposition that subsequent to the execution of the January 1976 leases it obtained reliable and firm assurances from government officials in both communities that it is still reasonable to assume that the sites will be made available to Alabama Citizens if it is granted a license.[4] Next, Alabama Citizens states that there is nothing in the new leases which grants AETC exclusive control for five years after it ceases to use the sites. Specifically, Alabama Citizens asserts that since the Montgomery lease automatically terminates when either the premises cease to be used as an educational television facility for five years or the tower, other structures and equipment erected thereon are permanently removed, if Alabama Citizens prevails in the comparative proceeding, the only way AETC can keep the property is not to use it for any purpose for five years and to leave the tower and other equipment in place during that time; however, were AETC to lose its license, Department of Health, Education and Welfare (HEW regulations governing the disposition of property no longer used for the project for which it was originally funded would require removal or transfer of much of AETC's equipment, thereby triggering the automatic termination of the lease.[5] In any event, continues Alabama Citizens, even if AETC could keep its equipment, if AETC refrained from any use of this property for five years merely to deny the site to Alabama Citizens, the leases would be voidable as contrary to public policy. Finally, Alabama Citizens maintains that since, but for the grant of interim operating authority to AETC by the Commission, the sites would currently be unused, and by the terms of the leases existing up to January 1, 1976 would have reverted back to the owners, AETC should not be permitted to use its interim operating status to enhance its position and "freeze out" its competitor. With respect to the Birmingham site, Alabama Citizens first argues that, contrary to AETC's analysis, the McClay letter indicates that it was and still is reasonable for the applicant to assume the availability of that site. Specifically, Alabama Citizens points out that McClay stated that he was "sympathetic" to Alabama Citizens' request, that he was willing to permit side-mounting if feasible, and that although McClay stated that the antenna was "owned" by AETC, he omitted the fact that by the express terms of Taft's agreement with AETC, if and when AETC no longer operates on Channel 10, the site, antenna, and other equipment immediately revert back to Taft.[6] In addition, continues Alabama Citizens, Butler's September 26, 1975 letter contains nothing which would have warranted a change in the applicant's assessment of the availability of the Birmingham site. Thus, Alamaba Citizens asserts that, contray to Butler's characterization, AETC does not own any of the sites and, therefore, has no legal authority to either convey or otherwise deny their use to Alabama Citizens should the latter prevail in the comparative hearing. In light of the above-noted errors and omissions in the McClay and Butler letters, Alabama Citizens concludes that it is reasonable to assume that the Taft tower will be available if it prevails in the comparative hearing and that, therefore, both site availability and lack of candor issues are unwarranted.

4. The [AETC] agrees that the antenna referred to * * * above will be used by it exclusively for educational television purposes as specified by the license issued to the [AETC] by the F.C.C. In the event the [AETC] exchanges channels with any other television station, or if the [AETC] should share the use of such facilities with a commercial operation, or in the event programming which violates FCC regulations governing E.T.V. is telecast over channel 10, the above mentioned equipment will revert to the Company as well as that portion of the premises occupied by the [AETC].

4. In reply, petitioner alleges with regard to the Birmingham site that Alabama Citizens has misread the AETC–TAFT lease since the agreement provides for reversion of the equipment back to Taft only under three limited circumstances, none of which will be present in the event of a grant to Alabama Citizens of a construction permit for Channel 10, see note 6, supra, and that McClay's letter is consistent with and supports this reading of the lease. With regard to the Montgomery site, petitioner points out that, regardless of what hap-

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[3] The Montgomery lease states, in pertinent part: 3. It is understood and agreed by the parties hereto that the premises herein leased are to be used for the maintenance and operation of an Educational Television Studio and/or Tower * * * If the demised premises should cease to be used as an educational television studio or transmission tower thereof for a period of five years or more, or if the tower and other structures and equipment erected thereon should be permanently removed, then this lease shall be automatically terminated. * * *

The Demopolis lease contains a substantially similar provision.

[4] In support, Alabama Citizens attaches the June 8, 1976 affidavit of Earnest L. Palmer. Affiant states that Judge Sammie Daniels, Probate Judge of Marengo County, Alabama, told him that he had talked with the Marengo County Commissioners and that it was their consensus that if Alabama Citizens is granted a license to operate Channel 41, AETC's present antenna site and transmitter location would be made available to the applicant. In addition, Alabama Citizens relies on the July 14, 1976 affidavit of Sue Thompson. Thompson avers that Mr. Joe Reed, a member of the Montgomery City Council, indicated to her that, in the event that Alabama Citizens obtained a license to operate Channel 26, he would assist the applicant in obtaining a lease of the property now being leased to AETC by the Montgomery Athletic Board.

[5] Alabama Citizens notes that AETC has purchased much of its equipment with HEW money within the past ten years and that HEW regulations provide that HEW retains an interest in such equipment for ten years. In support, Alabama Citizens cites, inter alia, 45 C.F.R. §§ 100a.22; 100a.215; 100a.495; 153.20; and 153.21.

[6] Alabama Citizens provides a copy of the agreement between AETC and Taft which reads, in pertinent part:

pens to AETC's authority to broadcast on Channel 26, AETC will continue to operate a studio on that site and use the tower to provide microwave linkage with its network and that, therefore, it will not trigger the provision in the lease that automatically terminates the agreement. With regard to the Demopolis site, AETC argues that HEW regulations do not require it to transfer to HEW or anyone else transmission equipment purchased with the aid of federal funds. Rather, according to movant, 45 C.F.R. § 153.21 states that, if within ten years after completion of any project for which a federal grant has been made "[a]ny of the transmission apparatus * * * ceases to be used for noncommercial educational broadcasting, * * * then the grantee shall * * * pay to the United States" a specified amount. Finally, AETC notes that Alabama Citizens' has not cited any authority to support its contention that the leases are voidable.

5. When an applicant proposes a site, it must do so with reasonable assurance in good faith that the site will be available. Ken Stephens, 53 FCC 2d 383, ___ RR 2d _____ (Rev. Bd. 1975). The Commission has also held, in cases involving an incumbent and challenger, that "absent some contrary indication or unusual circumstances" it would be reasonable for an applicant to assume that a renewal applicant, whose application has been denied, would be receptive to an offer to purchase its transmitter and antenna sites. Belo Broadcasting Corp., 42 FCC 2d 1011, 28 RR 2d 732 (Rev. Bd. 1973). The question first arises herein whether Alabama Citizens can rely on the assumption of availability of the proposed Montgomery and Demopolis sites in light of AETC's execution of new leases for those sites, which, according to AETC, will give it control over the sites even if it is not successful in the present hearing. The Board cannot resolve this issue with the facts before it. Although we have closely examined the leases and the parties' arguments, it is unclear whether either AETC or the Public Athletic Board of the City of Montgomery and the Marengo County Commission, under the terms of their relationships, would have the authority either unilaterally to make the sites available, or unilaterally to deny the sites to Alabama Citizens. However, while AETC has failed to conclusively demonstrate that it has the authority to deny Alabama Citizens use of the Montgomery and Demopolis sites, Alabama Citizens' reliance on the assumption that the sites would be available is not sufficient to stances, a site availability issue is warranted with respect to the applicant's proposed Montgomery and Demopolis sites. Belo Broadcasting Corporation (WFAA), 61 FCC 2d 351, released October 19, 1976; United Broadcasting Company, 58 FCC 2d 1346, 36 RR 2d 1556 (Rev. Bd. 1976).

6. Similarly, the Board is also of the view that Alabama Citizens can no longer rely on the assumption of availability of its proposed Birmingham site. Here, again, we cannot state with absolute certainty that the AETC-Taft lease provides that AETC will retain control of the Birmingham site, should Alabama Citizens prevail in the subject hearing. Nevertheless, we believe that Taft's statement that Alabama Citizens must obtain AETC's agreement to make its "AETC's] antenna available "as a condition precedent" to any discussions concerning the applicant's use of the Taft tower, combined with AETC's plain refusal to make its antenna available, is clearly sufficient to rebut the assumption of availability upon which Alabama Citizens relies. Cf. Catamount Broadcasters, Inc., supra. Accordingly, we cannot conclude that the applicant has reasonable assurance that the Taft site will be available to it. Therefore, the site availability issue will include Birmingham as well. We will decline, however, to add petitioner's requested lack of candor issue. This request is premised on Alabama Citizens' November 11, 1975 statement that "Some or all of these antenna sites will be available," a statement which AETC claims is belied by the fact that Alabama Citizens allegedly knew that the Birmingham tower would not be available without AETC's consent. However, the status of the site is not clear and, even assuming that Alabama Citizens should have known that a problem existed with regard to the Birmingham site, its statement was not inaccurate or misleading with respect to the Montgomery and Demopolis sites since at the time the statement was made the new leases providing for continuing control by AETC had not been executed. Therefore, the claim that "some or all" of the sites would be available is not clearly misleading.

FUNDS AVAILABILITY ISSUE

7. AETC requests that the designated financial issue be modified to delete the introductory clause,[8] and expanded to encompass an inquiry into whether Alabama Citizens has established the reasonable availability of the HEW funding it proposes to rely on to defray 75 percent of its proposed construction overcome the substantial questions that have been raised.[7] Under these circumcosts.[9] In support, AETC cites SRC, Inc., 21 FCC 2d 931, 18 RR 2d 714 (Rev. Bd. 1970) and argues that before the Commission finds that funds are reasonably available, a non-commercial ETV applicant relying on HEW funds must show that it "would likely" meet the eligibility requirements of HEW for an ETV grant. According to AETC, Alabama Citizens has not demonstrated the foregoing. Specifically, AETC maintains that Alabama Citizens has not demonstrated that it meets the statutory eligibility requirements for applicants for noncommercial educational broadcast facilities, and consequently for HEW funding, as set out in the legislative history of Section 392 (a)(1) of the Communications Act of 1934, as amended, since it has failed to establish that its board of directors is broadly representative of the educational, cultural, and civic groups in the community, or includes public or private educational organizations or representatives, and that it is an association of nonprofit community organizations, an accredited educational organization, or a tax-supported cultural organization.[10] In addition, AETC points out that Alabama Citizens has not filed an application with HEW for funding of its alternative financial plan, based on construction of all new facilities and new equipment, and that the application now on file with HEW, based on used equipment, has not

[7] It should be noted that Alabama Citizens has not submitted any interpretation of the lease agreements by competent local counsel which would support its position. Neither has the applicant submitted any indication of the willingness of either lessor to make the sites available to it. Thus, the Palmer and Thompson affidavits (n.4, *supra*) are not only hearsay, but they do not describe conversations with any member of either governmental body responsible for the sites.

[8] The introductory clause to the designated issue reads as follows: "Assuming that all of the funds from the Department of Health, Education and Welfare which Alabama Citizens relies upon will be available: * * * " The remainder of the designated issue requires that Alabama Citizens demonstrate the availability of all of its other proposed funds.

[9] With regard to the question of HEW funding, the Commission in the designation Order stated, on the basis of the applicant's representations in its application, that since "HEW [would] not commit itself to financial assistance prior to a determination in the comparative hearing," the applicant could not provide any documentation of HEW funds availability beyond a copy of its HEW application. The Commission further stated that, in the event Alabama Citizens received a grant, it could be made contingent on the applicant's demonstration, within a reasonable time thereafter, of the availability of funds from HEW. However, according to petitioner, to the extent that the Commission has not thoroughly considered certain aspects of the HEW funding question, further Review Board analysis is appropriate. In support, AETC relies on Atlantic Broadcasting, Inc., 5 FCC 2d 717, 8 RR 2d 991 (1966).

[10] According to AETC, Alabama Citizens' HEW application indicates that only three members of its 17 member board of directors reside within Channel 26's service area and only two members reside within Channel 41's service area. In addition, AETC states that, while Alabama Citizens lists six members from Birmingham, they are not broadly representative of educational, cultural, and civic groups. Furthermore, continues AETC, no member of the board is shown to have the authority to represent any public or private organization and no such organization is itself a board member.

been perfected.[11] However, continues AETC, the filing of an application is a prerequisite to any consideration by HEW, citing 45 CFR § 153.5. Furthermore, AETC states that, while Alabama Citizens does not have title or lease to its proposed antenna or transmitter sites, paras. 2 and 4, *supra*, and has not even proposed specific studio locations, the foregoing are also prerequisites to HEW funding. In support, petitioner cites 45 CFR 153.5(c).

8. Next, AETC argues that since Alabama Citizens' application for a construction permit simply totals its construction costs (approximately 1.6 million) and specifies 75 percent of that amount (1.2 million) as the portion of its alternative proposal to be met with HEW funds, it is apparent that Alabama Citizens is relying on HEW funding support for items which are specifically ineligible for such support under HEW regulations. Citing 45 C.F.R. Part 153, Appendix A, petitioner lists the following allegedly necessary items which HEW will not fund: maintenance, editing, studio lighting, control and office equipment; tape and film reels; primary power supply; furniture; and film and recording tape. Moreover, AETC alleges that 45 C.F.R. 153.5(c)(5) prohibits the approval of funding for any project until an applicant has verified to HEW that sufficient additional non-federal funds "will be available when needed" to finance various aspects of its operation and that Alabama Citizens has not made the required showing.[12] Finally, movant submits a letter dated April 13, 1976, from John Powers, program officer for HEW's educational broadcasting facilities program, to AETC's Washington counsel. Therein, Powers indicates, in response to several questions posed by AETC's Washington counsel, that it is "statutorily impossible" for the applicant to obtain from HEW the $1.2 million it seeks in its financial proposal based on new equipment, and that it is "improbable" that Alabama Citizens could obtain even the smaller amount it seeks in its proposal based on used equipment.[13] In this regard, Powers further explains that grants to any state may not exceed 8½ percent of the total federal appropriations for the ETV facilities program for the fiscal year, which in this case equals $1,062,500, and that it has been HEW practice in recent years not to award huge grants to single applicants because of limited appropriations.[14] The Bureau supports addition of a funds eligibility issue.

9. In opposition, Alabama Citizens first argues that the Commission's designation Order thoroughly addressed all aspects of the question of whether the applicant has established the reasonable availability of HEW funding support and that, therefore, the Review Board is foreclosed by Atlantic Broadcasting, Inc., supra, from consideration of this matter. Next, Alabama Citizens maintains that petitioner's attempt to change the designated financial issue ignores the unique nature of this proceeding. In support, the applicant asserts that "it simply makes no sense" to have the availability of HEW funding designated as an issue. Thus, the applicant refers to a letter dated February 12, 1976, which Powers sent to a member of Alabama Citizens' board, wherein Powers stated that HEW cannot act on the subject funding application until a resolution of the FCC proceedings. In addition, the applicant urges that the FCC cannot determine in its hearing whether Alabama Citizens is qualified to receive an HEW grant, that the amount of assistance needed by the applicant is tied to the availability of HEW equipment currently used by AETC and potentially transferable to the applicant should it receive a grant,[15] and that this is the first mutually exclusive noncommercial licensing proceeding in the Commission's history involving a licensee which has already been denied renewal. In light of these facts, the applicant reasons that, unless the designated financial issue which assumes the availability of HEW funding is retained, Alabama Citizens will be "caught in a Catch 22," unable to compete in the comparative hearing because HEW is precluded from processing its application prior to a grant of the license and unable to obtain an HEW grant because the Commission cannot find it financially qualified.

10. Turning to SRC, Inc., supra, relied on by AETC, Alabama Citizens points out that, in contrast to the applicant in that case, it has filed a timely application for HEW funds, which was accepted for filing by HEW,[16] that it has received a commitment from Powers to have his staff work closely with Alabama Citizens in order to help the applicant more fully develop its applications for funds, and that Powers has also indicated his willingness to assist Alabama Citizens in obtaining a commitment to have the federal interest in AETC equipment transferred to Alabama Citizens upon his receipt of a "definite word on any changed status of or proposed disposition of that equipment." In support, the applicant again relies on Powers' February 12 letter. With regard to AETC's allegations concerning the various ways the applicant allegedly fails to meet HEW's basic eligibility requirements, Alabama Citizens asserts that it is prepared to demonstrate, at a future time, that it has assurances of the availability of other funding and firm leases, and that its board has broad and deep ties into each community of license; that AETC ignores the fact that it was unnecessary for the applicant to continue to process its HEW application, in light of Powers' letter of February 12, 1976;[17] and that the $1.2 million figure is only a hypothetical maximum amount and will be reduced by the value of HEW financed equipment now used by AETC, by the purchase of used equipment, and by donations. Finally, the applicant argues that it is not impossible or improbable to expect Alabama Citizens to receive a large grant from HEW since HEW has made numerous maximum or near maximum allowable grants within a single state and there is no legal restriction on a single source within a state receiving all of the awards granted in a single year.[18]

[11] The designation Order indicates that Alabama Citizens has on file two alternative construction budgets, one of which is based on the use of used equipment. In conjunction with that proposal, Alabama Citizens is seeking $318,026 from HEW out of a total requirement of $421,672. The second proposal, based on the use of new equipment and construction of new facilities, seeks funding to the extent of $1,191,656 from HEW, out of a total requirement of $1,588,875.

[12] According to petitioner, the applicant must show at the time the grant is made that it has sufficient non-federal funds to pay for 25% of all costs for which HEW funds are sought.

[13] In addition, Powers states that it would not be proper to assume that AETC's federally funded apparatus "automatically" becomes available to Alabama Citizens upon the Commission's grant of a construction permit.

[14] In substantiation of several of the foregoing arguments AETC also relies on a February 2, 1976, "Statement of Priorities and Additional Information Needed" (Statement), concerning Alabama Citizens' application, which was prepared by John Powers and allegedly sent to the applicant. Therein, Powers indicates that Alabama Citizens' application was deficient in that it failed to verify that matching funds would be available, failed to provide specifics on site location, including ownership or lease arrangements, and failed to provide information to indicate that Alabama Citizens' board of directors is "reasonably representative of [the] community." According to AETC, HEW's files indicate that Alabama Citizens has never responded to Powers' request.

[15] Citing various HEW regulations, see note 5, supra, the applicant alleges, in effect, that if it prevails in the comparative hearing it will be the recipient of at least $700,000 worth of apparatus.

[16] The applicant states that this fact is of particular importance in light of HEW regulation 45 C.F.R. 153.8 which provides that "Applications tendered for filing . . . will be given a preliminary examination. Those found to be complete or substantially complete and in accordance with the provisions of this part will be accepted for filing."

[17] In this regard, Alabama Citizens also points out that Powers told its counsel that he would not send the Statement, see note 14, supra. Thus, the applicant notes that it never responded to that request since it was never sent. In support of the latter fact Alabama Citizens provides an affidavit from its Washington counsel.

[18] As a related matter, Alabama Citizens alleges that Powers' letter of April 13, 1976 to AETC's Washington counsel, see para. 8, supra, cannot limit Alabama Citizens' funding potential. In particular, the applicant points out that Powers' analysis was rendered after he had advised the applicant in his letter of February 12, 1976 that it was unlikely that it would meet the license holding requirement necessary to qualify for a grant in fiscal 1976 and after Alabama Citizens had ceased processing its 1976 funding application; that AETC's counsel attempted to frame his questions in a manner most favorable to AETC; and that Powers' responses were "elusive and incomplete."

11. The Review Board will grant petitioner's request in part. Since the designation Order does not contain a reasoned analysis of the question of Alabama Citizens' eligibility for HEW funding (see note 9, supra), the Board is not now foreclosed from consideration of these matters. Atlantic Broadcasting, Inc., supra. It is established Commission policy to require only a reasonable—not a stringent—showing of financial qualifications for noncommercial educational applicants. See Los Angeles Unified School District, 30 FCC 2d 547, 22 RR 2d 163 (Rev. Bd. 1971); NTA Television Broadcasting Corp., 44 FCC 2563, 22 RR 273 (1961). The policy, however, does not in our view allow a noncommercial applicant that is relying on the availability of HEW grant funds to do no more than merely propose whatever HEW funds it requires. Thus, before the Commission finds that HEW grant funds are reasonably available, the applicant must present reliable evidence to establish that it will likely meet the eligibility requirements of HEW for a grant where such a showing can be made prior to action on the loan by HEW. See SRC, Inc., supra, 21 FCC 2d at 929. In our view, the instant pleadings raise a substantial question as to whether Alabama Citizens' proposal will likely meet various eligibility requirements which are capable of proof at this time.

12. Specifically, while in order to be eligible for HEW funding an appropriate application must be tendered to HEW (45 C.F.R. 153.5 (a)(1); see SRC, Inc., supra), Alabama Citizens admits that it has not yet filed any information with HEW concerning its intention to request $1.2 million in grant funds, as revealed in its February 26, 1976 amendment to its license applications.[19] In addition, as correctly asserted by AETC, since HEW regulations preclude funding support for a number of allegedly necessary equipment items, the absence of an appropriate application precludes an HEW determination as to whether the applicant has taken that HEW regulation into consideration. Further, the applicant has failed to adequately respond herein to the serious questions raised by Powers' April 13, 1976 letter and the February 2, 1976 "Statement," as to whether Alabama Citizens' proposal will likely comport with several of HEW's eligibility requirements (see 45 C.F.R. 154.5(c)), that are a prerequisite to funding. Specifically, rather than provide any information which would establish or even indicate its ability to meet HEW's requirements concerning the composition of its board of directors, assurances of funds to meet the nonfederal share of the cost of the project, or lease or title to its proposed transmitter and studio sites, Alabama Citizens relies on unsupported and conclusory statements to the effect that it can make the required showing at hearing or upon HEW's request.[20] Finally, with respect to the question of whether Alabama Citizens' request for $1.2 million is realistic in light of 45 C.F.R. § 153.10, which refers to a statutory limit on grants to a state in a given year, we believe that this relates to the broader general question of the availability of the proposed HEW funds, a matter which is foreclosed in the present hearing. In light of the foregoing, the Board will expand the existing financial issue to encompass an inquiry into whether the applicant has established its eligibility for its proposed HEW grant funds.[21]

TECHNICAL QUALIFICATIONS ISSUE

13. AETC argues that, although Alabama Citizens proposes that programs in two of its three proposed cities of license will be received off-air and rebroadcast after being simulcast from either Montgomery or Birmingham and that two of its three proposed main transmitters will be operated by remote control from a point in either Birmingham or Montgomery, neither the off-air pickup or the remote operation aspects of the proposal are technically feasible. In support, petitioner relies on the May 21, 1976 affidavit of Albert H. Renfro, Jr., chief engineer for AETC since 1956. Therein, Renfro states, in essence, that in past years extensive tests conducted by AETC indicated that except for the signal of Channel 10, Birmingham, which could be received in Demopolis, no usable signal of either Channel 10, Birmingham, Channel 41, Demopolis, or Channel 26, Montgomery, could be received in any of these other cities in order to permit off-air pickup and remote control operation; that under affiant's direction new signal measurements were taken on AETC's towers in Birmingham and Montgomery on May 1–20, 1976, in order to determine on May 18–20, 1976, in order to determine posal;[22] that on the basis of these measurements, it is affiant's considered opinion that the applicant's proposal "to receive off-air the signal of Channel 10, Birmingham, or Channel 26, Montgomrey, in the other city for the purpose of rebroadcasting that signal" and to operate by "remote control * * * the transmitters of Channels 10, 26 and 41 by monitoring these signals off-air in Birmingham or Montgomery [is] not feasible"; and that, therefore, the only practical alternative for obtaining simulcast programming and remote operation is microwave or leased-line links, which are extremely expensive. In this regard, petitioner argues that, since Alabama Citizens has neither proposed the necessary equipment, nor budgeted for such microwave or leased-line links, an issue is required to determine whether the applicant can operate as proposed. In support, AETC cites California Stereo, Inc., 40 FCC 2d 283, 26 RR 2d 1713 (Rev. Bd. 1973); and Kittyhawk Broadcasting Corp., 8 FCC 2d 839, 10 RR 2d 628 (Rev. Bd. 1967). Moreover, AETC maintains that, even assuming that Alabama Citizens' technical proposal is capable of effectuation, the applicant has not budgeted for other equipment necessary to operate as proposed. Thus, AETC contends that, although exhibit 9 of Alabama Citizens' application provides that the Birmingham and Montgomery studios "will have all necessary main broadcast facilities * * *", Alabama Citizens' amended exhibit 5 does not reflect any attempt to budget for studio equipment in any city other than Birmingham.[23] In addition, AETC notes that, while Alabama Citizens proposes to rely heavily on remote broadcasts for local programming and even proposes to utilize a mobile unit to produce local programming, it does not propose to purchase any vehicles. The Bureau supports the requested issue.

14. In opposition, Alabama Citizens relies primarily on the July 9, 1976 affidavit of Benjamin F. Dawson, its consulting engineer, who attests to more than 20 years of experience in the field

[19] Alabama Citizens' argument to the contrary notwithstanding, we find no basis for concluding that Powers' February 12, 1976 letter justifies its failure to file an HEW application. Furthermore, although the applicant states in its opposition that there is little likelihood that it will actually need the 1.2 million it has requested, it is well settled that requests to enlarge issues must be resolved on the basis of an applicant's proposal of record. Edward G. Atsinger, III, 30 FCC 2d 493, 22 RR 2d 236 (Rev. Bd. 1971); Kittyhawk Broadcasting Corp., 8 FCC 2d 217, 9 RR 2d 1283 (Rev. Bd. 1967).

[20] In fact, in at least one instance, the question of lease or title to its proposed sites, the only available evidence belies the applicant's bald assertions. Thus, as noted in paras. 5 and 6, supra, the applicant has not established the reasonable availability of its sites, let alone lease or title thereto. The Board also notes that the fact that an application for funds has been accepted for filing does not constitute a determination that the applicant complies with HEW eligibility requirements. According to 45 C.F.R. 153.8, "Acceptance of an application for filing will not preclude subsequent return or disapproval of the application if it is found not to be in accordance with the provisions of this part * * *"

[21] We believe it appropriate to point out that in view of the unique nature of this proceeding, an alternative means for resolving the threshold question regarding Alabama Citizens' eligibility for HEW funding is preferable. All parties to this proceeding may wish to meet formally or informally with HEW representatives in order that the latter may make and submit for the record a written preliminary determination that Alabama Citizens either meets or does not meet its eligibility standards. This suggestion would not involve any determination as to the broader questions of the availability or extent of HEW funding, but is merely intended to provide to the parties, if they are amenable, a simple and less burdensome means of resolving this question.

[22] AETC attaches an appendix to this affidavit which explains in detail the methodology and results of these tests. Affiant indicates that the antenna and transmission equipment proposed by Alabama Citizens is identical to that used by AETC in making these tests.

[23] In this regard, AETC states that Alabama Citizens has not amended exhibit 9 and that it is well settled that a determination as to whether an issue is warranted must be based on the current application. In support, petitioner cites Edward G. Atsinger, III, supra, and Kittyhawk Broadcasting Corp., supra.

of telecommunications engineering. Therein, pursuant to a detailed analysis of Renfro's methodology and findings, Dawson concludes that the test procedures outlined by Renfro indicate that neither the equipment nor methods employed were representative of the state of the art and that based on his own analysis, using Renfro's own signal measurement data it is his considered opinion that Alabama Citizens' proposal is "possible and practical." In particular, Dawson states that the use of high quality equipment, correctly installed, would provide excellent picture quality signals for rebroadcast of both Channel 41 and Channel 10 at Montgomery, that there is "a very likely possibility" of adequate reception of Channel 26 at Birmingham, that the reception of Channel 41 at Birmingham is "not to be dismissed as lightly as AETC would have," and that Renfro's "undocumented claim" with regard to the impracticability of receipt of Channel 26 at Demopolis must be dismissed in light of the similar favorable considerations which would permit receipt of Channel 41 at Montgomery.[24] With regard to its studio proposal, the applicant refers to exhibit 5 of its February 26, 1976 amendment. According to Alabama Citizens, that amendment clarifies its proposal since it provides that if Alabama Citizens does not have the funds necessary for simultaneous construction of all three new facilities at the time its application is approved, adequate program service can still be provided by construction of one fully equipped studio in Montgomery or Birmingham (including a van for remote broadcasts) and by delaying for one year construction of one or both of the other studios. However, continues Alabama Citizens, if funds are available, fully equipped store front studios would be developed in each community.

15. In response, AETC asserts that Dawson's opinion that acceptable off-air signals could have been received had AETC used better equipment is based on mere speculation. In addition, AETC attaches a rebuttal affidavit from Albert Renfro, dated August 4, 1976. Affiant analyzes Dawson's affidavit and concludes that, even using the equipment Dawson suggests, the signals could not be received with adequate consistency to permit off-air pickup and remote control operation. Petitioner also argues that it is evident from Alabama Citizens' amended exhibit 5 that the applicant does not propose to utilize the sophisticated and expensive linkage equipment which Dawson describes in his affidavit. Finally, petitioner argues that the applicant cannot amend exhibit 9 by statements in its opposition that its actual studio proposal will depend on funds available at the time of construction.

16. The Board will add the requested technical qualifications issue. We believe that a substantial question has been raised as to whether the proposed off-air program interconnection and remote control operation aspects of Alabama Citizens' proposal are technically feasible. In particular, there is a serious dispute with regard to the conclusions reached in the engineering affidavits submitted by the applicants, which the Board is unable to resolve on the basis of the pleadings before us.[25] Thus, there is a direct conflict between Renfro's initial affidavit, which concludes, on the basis of his own signal measurement tests, that Alabama Citizens' off-air interconnection and remote control proposal is "not feasible," and the sworn statement of Dawson concluding that, based on his analysis of Renfro's signal measurement data, Alabama Citizens' proposal is "possible and practical." In our view, the conflict in the conclusions reached in these experts' affidavits is sufficient in itself to justify resolution on the basis of an evidentiary record. See WSTE–TV, Inc., 16 FCC 2d 625, 15 RR 2d 697 (Rev. Bd. 1969); cf. Rocket Radio, Inc., 56 FCC 2d 245, 35 RR 2d 409 (Rev. Bd. 1975); Rosemor Broadcasting Company, Inc., 46 FCC 2d 1182, 30 RR 2d 360 (Rev. Bd. 1974). The Board will not, however, add an issue with respect to studio equipment costs. It is not disputed that Alabama Citizens has budgeted sufficient funds to cover the cost of its off-air interconnection and remote operation as presently proposed. If, during the hearing, its proposal is modified and new equipment added, and if such modification affects its financial proposal, petitioner would be free at that time to file an appropriate request for enlargement. In addition, the balance of AETC's allegations concerning the applicant's failure to budget for all necessary equipment to operate as proposed, have been satisfactorily answered in exhibit 5 of Alabama Citizens' February 26, 1976 amendment and in the subject opposition.[26]

COMPARATIVE (IN-SCHOOL) PROGRAMMING

17. In support of its request for a comparative programming issue, AETC argues that its showing meets the standard for addition of a comparative programming issue as set forth in Chapman Radio & Television Co., 5 FCC 2d 416, 8 RR 2d 788 (Rev. Bd. 1966) and the Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, 5 RR 2d 1901 (1965). In this regard, petitioner first asserts that a "marked and substantial" difference exists in the applicants' proposed programming. Specifically, AETC notes that while it has proposed approximately 33 hours week of in-school instructional television (ITV) programming, which is more than 35% of its total proposed programming, Alabama Citizens proposes no more than three hours per week of such programming, which is less than 6% of its total proposed programming. In addition, continues petitioner, these differences evince a superior devotion to public service since they can be related "to the demonstrated needs and interests of the community." In particular, petitioner states that the Congressional record underlying the other legislation is replete with statements as to the need for and value of in-school ITV programming;[27] that Congress' judgment in that regard is confirmed by officials of the Alabama state education system and by those who see the effect of such programming at the local level;[28] and that the ascertainment studies it has conducted indicate that education is the second most important stateside area of concern mentioned by community leaders. Finally, AETC asserts that it has taken steps to assure that in-school ITV programming will be responsive to students' needs since both classroom teachers and the Alabama State Educational Television Curriculum Committee, which is composed of representatives of a wide range of educational organizations, will evaluate students' needs and make program recommendations to AETC.

[24] Dawson also avers that in the event that a receiver site and microwave link are needed for Montgomery, the total capital outlay would be less than $15,000, which is within the applicant's budget, based on catalogue prices for the latest available microwave equipment and that Alabama Citizens' proposed budget is also adequate to cover the cost of control and telemetry links should they be needed.

[25] In this regard, we note that the affidavits submitted are from two individuals each of whom has over 20 years of experience in communications engineering.

[26] To the extent that exhibit 5 of Alabama Citizens' February 26 amendment introduces the applicant's proposal for alternative construction plans for its proposed stations, see note 11, supra, and discusses the effect of these alternative proposals on exhibit 9 of the application, we believe that it does, in fact, amend exhibit 9 of its application. The Board is also of the view that, absent a showing by petitioner to the contrary, the total of $35,000 which is allocated for miscellaneous costs in the applicant's three proposals, even if reduced by the items noted on page 2 of amended exhibit 5, appears to be sufficient to cover the cost of any vehicle which may be needed.

[27] In support, petitioner cites S. Rep. No. 67, 87th Cong., 2d Sess., reprinted in [1962] U.S. Code Cong. & Ad. News 1614, 1616; S. Rep. No. 222, 90th Cong., 1st Sess., reprinted in [1967] U.S. Code Cong. & Ad. News 1772, 1782.

[28] Petitioner refers to the affidavits of Mary T. Dowdy, former elementary school teacher and now an elementary school principal; Katherine S. Carroll, former teacher and presently a member of both the Birmingham Schools Instructional Television Department and the Alabama State Educational Television Curriculum Committee (AETVCC); Tyna D. Davis, advisor to the AETVCC and president of the Alabama Association of Classroom Teachers; Wayne Teague, State Superintendent of Education; and Lela B. Gildersleeve, former teacher and principal, Supervisor of Instruction, Montgomery Public Schools and member of the AETVCC. These educators all state that they are familiar with or have used in-school ITV programming. In addition, they variously state that in-school ITV programming is a vital part of the school curriculum, that many teachers feel the need of the expert assistance the programs provide, that it adds a dimension to the school program which teachers cannot provide, that it enriches the learning experience, and that it serves as a motivational agent.

18. In opposition, Alabama Citizens first argues that a comparative programming issue cannot be specified where, as is the case here, one applicant merely proposes more of one type of programming than does another applicant. In addition, Alabama Citizens points out that it states in its application that it will expand its own locally produced in-school ITV programming when money is available. Similarly, Alabama Citizens contends that, as funds become available, it is "even prepared to consider airing" the in-school ITV programming currently carried by AETC. Finally, Alabama Citizens asserts that, contrary to AETC's claim of superior in-school ITV programming, a 1975 Alabama Media Project (AMP) telephone survey of 47 public schools in the Channel 26 service area, indicates that AETC's in-school ITV programming is not being watched.[29] Accordingly, reasons Alabama Citizens, no issue should be specified on the basis of the disparity in in-school ITV programming proposals. The Bureau also opposes the requested issue.

19. The Board will deny the requested issue. In past cases involving competing applicants for non-commercial educational broadcast facilities, the Commission has modified the standard comparative issue to reflect the relative integrated use of the proposed station in the overall educational and cultural operations and objectives of the applicants. The manner in which these objective will meet the needs of the community to be served is also an appropriate consideration under this issue.[30] In light of this past precedent, we believe a comparable issue is required in this case. We further believe that the inquiry encompassed by this issue renders it inappropriate to apply the tests set forth in Chapman Radio and Television Co., 7 FCC 2d 213, 9 RR 2d 635 (1967), a commercial broadcast proceeding, to this educational television case. Accordingly, we shall not specify the issue sought by petitioner; should AETC wish to introduce evidence of its claimed superiority in programming to the Presiding Judge under the modified comparative issue, the latter may then decide as a matter of his initial authority whether the scope of the issue is broad enough to encompass the matters raised.

COMPARATIVE FACILITIES AND STAFFING ISSUE

20. Initially, petitioner argues that in view of Congress' recognition that noncommercial educational television broadcasts must be of the highest technical quality in order to compete effectively with commercial television, a comparative issue inquiring into the difference in the technical quality of programming possible under the applicant's proopsals is warranted.[31] In this regard, continues AETC, its proposal includes programming and production equipment and staffing resources which will produce a programming product of far superior technical quality than that proposed by Alabama Citizens. Specifically, AETC states that, while it proposes all-color originating capability, Alabama Citizens proposes that Demopolis will have only black and white origination capability and has not budgeted for its proposed color capability in Montgomery;[32] that Alabama Citizens proposes the use of three Sony DXC–5000B cameras, which, petitioner states, are not of broadcast quality; that, although Alabama Citizens proposes a store-front studio in each of the communities in which it seeks a station, AETC proposes a studio in Montgomery and six additional local production centers, the latter to be operated by "outstanding public educational institution[s]"; and that Alabama Citizens proposes a total staff of only 19 full-time and 11 part-time employees and a programming staff-camera crew of only 10 full-time and 6 part-time employees, whereas AETC proposes a total staff of 141 full-time and 65 part-time employees, of whom 87 full-time and 55 part-time employees will work in AETC's program production studios or production centers.

21. The Board will deny the requested issue. An applicant's staffing, studio, and equipment proposals are not properly subjects for comparative consideration, except where an inability to carry out proposals is indicated. Policy Statement on Comparative Broadcast Hearings, supra. In our view, petitioner has not shown, or even alleged, that Alabama Citizens' proposals are incapable of effectuation.[33] Moreover, even assuming, as petitioner argues, that a different standard must be applied in noncommercial educational broadcast cases, AETC's allegations are insufficient to warrant addition of an issue. Thus, AETC's allegation that it is "informed" that Alabama Citizens' cameras are not of broadcast quality clearly does not meet the support or specificity requirements of § 1.229(d) of the Commission's Rules. Similarly, the mere recitation of numerical differences in staffs and production centers is patently deficient. AETC fails to show how these differences will reflect a difference in technical quality of service. Finally, even assuming that there is "a significant saturation" of color television receivers in the Demopolis area, we do not believe that AETC's allegation concerning its all-color proposal raises a question of decisional significance. In particular, a preference for an all-color proposal would be so "minor" or "ceremonial," that we do not perceive how it could possibly add to or detract from the decidedly more important and significant evaluative criteria on which this case will ultimately be decided. Cf. Veterans Broadcasting Co., supra, 38 FCC at 69. For all of the above-noted reasons the requested issue must be denied.

22. *Accordingly, it is ordered*, That the motion to strike, filed September 8, 1976, by Alabama Citizens for Responsive Public Television, Inc., is denied;

23. *It is further ordered*, That the petition to enlarge and modify issues, filed May 24, 1976, by the Alabama Educational Television Commission, is granted to the extent indicated herein, and is denied in all other respects; that issue (1) as specified in the designation Order herein is modified, to include the following:

To determine whether Alabama Citizens for Responsive Public Television, Inc. is eligible for HEW grant funding as proposed in its application.

24. *It is further ordered*, That the issues in this proceeding are enlarged to include the following issues:

(a) To determine whether Alabama Citizens for Responsive Public Television, Inc., has reasonable assurance of the availability of the transmitter and antenna sites specified in its applications;

(b) To determine whether the off-air pickup and remote control operation aspects of Alabama Citizens for Responsive Public Television, Inc's proposal are technically feasible, and, if not, whether the applicant is technically qualified;

(c) To determine the extent to which each of the proposed operations will be integrated into the overall cultural and educational operation and objectives of the respective ap-

[29] In support, Alabama Citizens includes the July 15, 1976 affidavit of Steve Suitts. Affiant states, in pertinent part, that in March–May 1975 he supervised a random telephone survey of grammar schools in the "service area of the state educational television * * * in Alabama * * * to ascertain the in-school use of educational television;" that in the Channel 26 service area "30 or 64% of the schools do not use or use only very limitedly * * * educational television broadcasting"; and that "no locally or state produced educational television broadcasting was used regularly each day."

[30] See New York University, FCC 67–673, 10 RR 2d 215, which was the first case in which the Commission formulated this issue, and Pacifica Foundation, 21 FCC 2d 216, 18 RR 2d 55 (1970), wherein the Board broadened the issue to account for the fact that neither applicant was a university as was the case in New York University, supra. This modification was subsequently approved by the Commission. See Los Angeles Unified School District, 30 FCC 2d 547, 22 RR 2d 163 (1971).

[31] In support, AETC refers to Sen. Rep. No. 67, 87th Cong., 2d Sess., reprinted in [1962] U.S. Code Cong. & Ad. News, supra, at 1775, 1778. In addition, petitioner asserts that comparative facilities and staffing issues are particularly appropriate in cases of non-commercial educational television applicants because of the inapplicability of the standard comparative criteria to these applicants, citing New York University, supra.

[32] According to AETC, with the high percentage saturation of color television receivers in the nation, this must be considered a significant difference. In this regard, AETC cites Veterans Broadcasting Co., 38 FCC 25 (1965), and argues that even in 1965, when the Commission could not assume "a significant saturation" of color television receivers, a slight preference was awarded to applicants proposing to telecast local live shows in color.

[33] We note that part of the Senate report cited by petitioner only indicates that a noncommercial education station must mount a professional operation so as to attract and hold audiences and AETC has not shown that Alabama Citizens' proposal fails in that respect.

plicants as well as the manner in which such objectives meet the needs of the community to be served; and/or whether other factors in the record demonstrate that one applicant will provide a superior educational television broadcast service.

25. *It is further ordered*, That the burdens of proceeding and proof with respect to issue (1) as modified herein and issues (a) and (b) as added herein, shall be on Alabama Citizens for Responsive Public Television, Inc.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-3623 Filed 2-3-77;8:45 am]

[FCC 77R-6]

FEDERAL BROADCASTING SYSTEM, INC. AND NIAGARA BROADCASTING SYSTEM

Memorandum Opinion and Order

ENLARGING ISSUES

Adopted: January 7, 1977.

Released: February 3, 1977.

In re applications of Federal Broadcasting System, Inc. for renewal of license of Station WSAY, Rochester, New York; Docket No. 20791, File No. BR-892; Niagara Broadcasting System, for renewal of license of Station WNIA, Cheektowaga, New York; Docket No. 20792, File No. BR-3295.

1. By Order, 59 FCC 2d 356, 41 FR 20212, published May 17, 1976, the Commission designated the above-captioned renewal applications for consolidated hearing on ascertainment, programming, equal employment, and Rule 1.526 issues.[1] The Commission also made the following organizations parties to this proceeding: Action For a Better Community, Inc. (ABC), Metro-Act of Rochester, Genesee Valley Chapter of the National Organization For Women (NOW), Rochester Black Media Coalition (RBMC) and BUILD, Inc. (BUILD). Now before the Review Board is a motion, filed June 8, 1976, by ABC, NOW, RBMC and BUILD, seeking to modify four issues already designated by the Commission and to add numerous additional issues against both Federal Broadcasting System, Inc. (Federal) and Niagara Broadcasting System (Niagara).[2] [3]

MODIFICATION OF ASCERTAINMENT ISSUES

2. Movants first request the Board to modify the ascertainment issues specified by the Commission to encompass an inquiry into the adequacy of the applicants' 1972 ascertainment surveys. According to movants, while the Commission determined that the 1972 and 1975 ascertainment showings[4] were equally defective, it improperly limited the scope of the designated issues to defects in the 1975 surveys. It is contended that as long as the issues are so limited, important evidence may be excluded from the hearing since the more compelling deficiencies relate to the 1972 surveys.

3. Though the Commission did find that Federal and Niagara's 1972 ascertainment efforts were defective, it made an explicit determination to forego designation of an issue on this basis (see Order, *supra*, at paras. 10, 46). Nothing that the ascertainment requirement is prospective in nature and that the requisite 1972–1975 license period had already expired, the Commission determined that the more appropriate area of inquiry in this regard was a determination of whether Federal and Niagara's programming during the 1972–1975 license term was reasonably responsive to the problems, needs, and interests of their respective communities. Consequently, this matter having been fully considered by the Commission, the Board will deny movants' request. See *Atlantic Broadcasting Co. (WUST)*, 5 FCC 2d 717, 8 RR 2d 991 (1966).

[1] Though Stations WSAY and WNIA are licensed to separate corporate entities and are authorized to serve distinct communities, the Commission designated their renewal applications for consolidated hearing since both licensees are owned by the same individual, Gordon Brown, and certain of the allegations made against the licensees prior to designation were interrelated.

[2] Also before the Board are the following related pleadings: (1) good cause showing for late filing of motion to modify and enlarge issues, filed June 8, 1976, by RBMC, ABC, NOW and BUILD; (2) opposition, filed June 23, 1976, by Federal and Niagara; (3) supplement to motion to modify and enlarge issues, filed June 29, 1976, by RBMC, NOW and BUILD; (4) comments, filed July 15, 1976, by the Broadcast Bureau; (5) reply, filed July 26, 1976, by RBMC; (6) response to (4) and (5), filed August 2, 1976, by Federal and Niagara; (7) response to (6), filed August 11, 1976, by RBMC; (8) addenda to (5), filed August 19, 1976, by RBMC; (9) addenda to motion to modify and enlarge issues, filed August 20, 1976, by RBMC; (10) supplemental request for oral argument, filed September 3, 1976, by Federal and Niagara; (11) opposition to (10), filed September 15, 1976, by the Broadcast Bureau; (12) motion to accept late filed opposition to (10), filed September 16, 1976, by RBMC; (13) opposition to (10), filed September 16, 1976, by RBMC; (14) supplement to motion to enlarge and modify issues, filed October 26, 1976, by RBMC; (15) motion to dismiss and opposition to (14), filed November 24, 1976, by Federal and Niagara; (16) comments on (14), filed November 29, 1976, by the Broadcast Bureau; (17) reply to (15), filed December 9, 1976, by RBMC; (18) further supplement to motion to enlarge and modify issues, filed December 13, 1976, by RBMC; (19) request for permission to file consolidated response to (17) and (18), filed December 23, 1976, by Federal and Niagara; (20) comments on new materials filed by RBMC, filed December 30, 1976, by Federal and Niagara; (21) opposition to (18), filed January 4, 1977, by Federal and Niagara; (22) comments on (18), filed January 4, 1977, by the Broadcast Bureau; and (23) further comments on (14), filed January 6, 1977, by the Broadcast Bureau. Movants have shown good cause for the six-day late filing of their motion to modify and enlarge issues, no cognizable harm has been incurred by the delay, and therefore the matters contained therein will be treated on their merits. Additionally, though questions have been raised regarding the authority of David Honig, who signed the motion to enlarge, to represent ABC, NOW, RBMC and BUILD, pleading (3) above contains affidavits by principals of NOW, RBMC and BUILD attesting to their participation in filing this motion (ABC is no longer actively participating in this proceeding). Consequently, the question of Honig's general authority to represent these organizations is not pertinent to our consideration of the instant motion. With regard to supplemental pleadings filed by the parties, though pleading (6) above is not authorized by the Commission's rules, it will be considered to the extent that it addresses new factual matters raised by movants in their reply. On the other hand, good cause has not been shown for the late filing of supplemental pleadings (7), (8), (9) and (14) above, and with the exception of certain allegations relating to character and misrepresentation issues raised by pleading (14) which are discussed at paras. 17 and 34, *infra*, the matters therein do not raise questions of probable decisional significance which are of such substantial public interest importance as to warrant consideration despite the untimely filing. See *Filings of Supplemental Pleadings Before the Review Board*, 40 FCC 2d 1026 (1972), and Rule 1.229 (c). Finally, pleading (18) above is timely filed based on the discovery of new evidence and consequently it will be considered by the Board in conjunction with Federal and Niagara's opposite pleading ((21) above) and the Bureau's comments ((22) above). In accord, Federal and Niagara's pleading (19) above is granted to the extent that it seeks permission to respond to RBMC's further supplement to motion to enlarge and modify issues.

[3] In support of their request by oral argument, the applicants contend that supplemental pleadings filed by movants, the large number of "spurious, false and malicious assertions" made against the applicants, and the toll of these proceedings on the health and finances of the applicants' principal, Gordon Brown, require that the Board allow the applicants an opportunity to answer movants' allegations by way of oral argument. It is well established that requests for oral argument on interlocutory matters will only be granted in the most unusual circumstances. *Ottawa Broadcasting Corp.*, FCC 64R-382, 3 RR 2d 575 (Rev. Bd. 1964). In this case, since the Board will not consider supplemental pleadings to which the applicants have not had a full opportunity to respond (see note, *supra*), no unusual circumstances are present, and the request for oral argument will be denied.

[4] The Commission had before it the licensees' 1972 renewal applications as well as 1975 supplements thereto. The renewal and supplemental applications contained separate ascertainment showings.

PROMISE VERSUS PERFORMANCE AND FAIRNESS DOCTRINE ISSUES (MODIFICATION OF PROGRAMMING AND REQUESTED ISSUE (j))[6]

4. Movants next request that the Board modify the programming issues designated against each applicant to include a promise versus performance inquiry. In support, it is contended that extensive mislogging of entertainment programs as public affairs, public service, or news by both applicants concealed a failure to comply with their 1969 and 1972 programming proposals. Movants also request the addition of a fairness doctrine issue alleging that once the applicants' logging errors are taken into account, it is apparent that both applicants have failed to allocate a "reasonable amount of broadcast time for the presentation of programs devoted to the discussion and consideration of controversial issues of public importance," citing the *Fairness Doctrine Primer*, 40 FCC 598 (1964). Specifically, movants refer the Board to paras. 16–22 and 48–50 of the Commission's designation Order wherein it was found that the amounts of local public affairs programming broadcast by both stations between 1969 and 1975 fell far below Commission standards. Moreover, it is alleged that WNIA lacks any regular program designed to encourage the discussion of controversial issues, while WSAY has for the first time proposed a 15-minute weekly program of this type in its April 5, 1976 amendment to its 1975 supplemental application. Finally, it is contended that Federal has actively discouraged attempts to air controversial viewpoints over WSAY; that the applicant refused a request by movants for air time to respond to military recruitment programs broadcast over WSAY; that it later attacked movants for making the request in pleadings filed with the Commission; and that Federal also refused to allow movants time to respond to a WSAY editorial despite a statement that it welcomed opposing viewpoints.

5. Both the Broadcast Bureau and the applicants oppose the request for a promise versus performance issue, arguing that the Commission considered and rejected similar allegations in its designation Order, and that, at any rate, the applicants' programming did in fact comply with their 1969 and 1972 proposals. As to the fairness request, the applicants contend that movants' allegations are too conclusory to raise serious questions in this regard, while the Bureau avers that the issues raised can be adequately explored under the broad programming responsiveness inquiries already designated by the Commission.

6. Although the Commission's designation Order indicates that it was aware of evidence relevant to a promise versus performance issue (see Order, *supra*, at paras. 16, 22, 48), there is no language indicating that it specifically considered or disposed of such a request. Consequently, the Board is constrained to consider this matter on its merits. See *Atlantic Broadcasting Co. (WUST)*, *supra; cf. Bunker Ramo Corp.*, 31 FCC 2d 449, 22 RR 2d 843 (Rev. Bd. 1971). Our review of Federal's 1969 renewal application reveals that it proposed to air 4 hours and 22 minutes of public affairs programming. However, as noted by the Commission in its designation Order, the WSAY station logs reveal that the applicant aired only 55 minutes of material which could reasonably be characterized as public affairs during its 1969–1972 composite week. Order, *supra*, at para. 16. Additionally, while Federal proposed 3 hours and 56 minutes of public affairs programming in its 1972 renewal application, the only local public affairs programming broadcast during the 1972–1975 composite week consisted of a single five-minute report. See *Order*, *supra*, at para. 22. Although Federal has recently amended its 1975 renewal application[6] in order to revise its 1972–1975 composite week programming logs, the applicant still claims to have aired only 1 hour and 40 minutes of weekly public affairs, a figure which is in substantial variance with its 1972 proposals.

7. Similarly, with respect to WNIA, while Niagara proposed 6 hours and 6 minutes of public affairs programming in its 1969 renewal application and 6 hours and 17 minutes of such programming in its 1972 application, it failed to broadcast any public affairs programming during the 1969–1972 license term and, with the possible exception of a 1 minute 42 second spot, it continued this failure throughout the 1972–1975 license term. See Order, *supra*, at para. 48. While Niagara has also revised its 1972–1975 weekly program logs in a recent amendment to its 1975 renewal application[7] and has included new programs in the public affairs category which were previously logged under other headings, the applicant still claims to have aired only 52 minutes of public affairs during the composite week as contrasted with its 6 hours and 17 minute proposal. The Commission has traditionally recognized the right of licensees to exercise considerable discretion with regard to programming; in this case, however, the substantial variances between Federal and Niagara's proposed and actual public affairs programming, in combination with their failure to provide a reasonable justification for their noncompliance,[8] clearly warrants the addition of promise versus performance issues. *Cf. United Broadcasting Co. (KBAY)*, FCC 76R–193, 37 RR 2d 1169 (Rev. Bd. 1976); *Vogel-Hendrix Corporation*, 58 FCC 2d 495, —— RR 24 —— (1976).

8. The Board also believes that substantial questions have been raised with regard to whether Stations WSAY and WNIA have met the Commission's requirement that a station devote a reasonable amount of time to the discussion of conflicting views on controversial issues of public importance. See Section 315 of the Communications Act of 1934, as amended, 47 U.S.C. 315; *Report on Editorializing*, 13 FCC 1246 (1949); *Fairness Report*, 48 FCC 2d 1, 9–17, 30 RR 2d 1261, 1276–85 (1974). We consider particularly significant the paucity of public affairs programming broadcast by the applicants during the 1969–1975 license terms (see discussion in paras. 6 and 7, *supra*), as well as the applicants' failure to present any information to the Board indicating that controversial issues of public importance were broadcast during this period. *Cf. United Broadcasting Co. (KBAY)*, FCC 76R–193, 37 RR 2d 1169 (Rev. Bd. 1976). However, the Board agrees with the Bureau that the questions raised may be adequately explored under the broad program responsiveness issues already designated by the Commission, and consequently, specification of an additional issue on this basis is unnecessary.[9]

LOGGING VIOLATIONS ISSUE (REQUESTED ISSUE (e))

9. Movants next contend that a separate logging violations issue is warranted based on the Commission's finding that Federal and Niagara mislogged the majority of their programming during the 1969–1975 license periods. Movants also allege that to date neither applicant has attempted to correct the logging errors

[5] The Board has considered the promise versus performance, fairness, and mislogging issues in sequence since these matters are interrelated.

[6] This amendment was filed on April 5, 1976, prior to designation of the applications for hearing, and therefore was accepted as a matter of right. However, in an effort to expedite these proceedings, the Commission did not consider this matter in its designation Order. See Order, *supra*, at para. 56.

[7] See note 6, *supra*.

[8] The applicants have argued that since the 1969 and 1972 programming proposals were based on the mistaken assumption that various programs properly fell within the public affairs category, they actually programmed exactly what they had promised. However, an applicant's consistent mislogging of programming cannot be used to excuse its failure to broadcast the promised amount of actual public affairs material. The Commission must be able to depend on an applicant's promises in making its initial licensing judgment and, in our view, serious questions have been raised as to whether the Commission can rely on these licensees to operate as proposed in the future. See *Lexington County Broadcasters, Inc.*, 41 FCC 2d 760, 27 RR 2d 1551 (Rev. Bd. 1973).

[9] As to allegations that Federal refused movants an opportunity to respond to certain matters broadcast over WSAY, the Board notes that military recruitment announcements are not deemed to be controversial matters of public importance which might trigger a right to respond. See *Rust Communications Group, Inc.*, 57 FCC 2d 873, 36 RR 2d 47 (Rev. Bd. 1976). As to the WSAY editorial (which concerned the creation of a new technical school in the Rochester area), movants have failed to meet their *prima facie* burden of showing that controversial matters of public importance were discussed; nor, for that matter, have they shown that the applicant presented only one side of the issue. See Fairness Report, *supra*, at para. 50.

found in their 1972 renewal applications, and that the revised station logs submitted with amendments to the applicants' 1975 supplemental applications evidence a continuation of the mislogging practices. With regard to the amended station logs, movants aver that public service announcements of as little as 10 to 15 seconds in length are still logged as public affairs, that the WNIA logs classify public service announcements, such as those for the YMCA, the Department of Social Services, and the American Lung Association, as local news, and that the amendments for both stations leave dozens of programs entirely uncategorized. According to movants, this continuing pattern of mislogging evidences a deliberate attempt by the applicants to conceal programming deficiencies from the Commission.

10. Contrary to an argument made by the applicants in opposition, the Commission's designation Order does not contain a "reasoned analysis" disposing of a request for logging violations issues. Consequently, the Board will consider this matter on its merits. See *Atlantic Broadcasting Co. (WUST), supra.* The majority of the logging errors noted by the Commission in its designation Order consist of categorizing most non-commercial spots and institutionally supplied, predominately entertainment programs as public affairs. See Order, *supra*, at paras. 16–22, 48–50. However, the information before the Board does not indicate that this mislogging was deliberate or that it was done in order to conceal facts from the Commission. First, Federal and Niagara's applications contain descriptions of several of the institutionally supplied programs which clearly indicate that they were primarily entertainment in content. The applications further state that these programs were classified as public affairs because "the sole purpose of these programs revolves around the public affairs of these sponsoring government agencies." This explanation, in combination with the fact that past renewals have been granted to the applicants despite similar mislogging of such programming, lead the Board to conclude that there is reasonable support for the applicants' contention that these logging errors resulted from a long-standing good faith misconception of the Commission's logging policies.[10] In addition, our review of the amended 1975 station logs indicates that the applicants have apparently made a good faith effort to correct logging errors noted by the Commission in its designation Order.[11] Consequently, in the absence of any indication of intentional misrepresentation, the Board believes that all problems of program classification may be adequately explored under the program responsiveness and promise versus performance issues already designated against each applicant without further burdening this proceeding by the specification of the requested mislogging issues. *Cf. Vogel-Hendrix Corporation, supra;* compare *Folkways Broadcasting, Inc.*, 33 FCC 2d 813, 21 RR 2d 163 (1972).

EQUAL EMPLOYMENT ISSUE (REQUESTED ISSUE (a))

11. Movants next contend that an issue should be added against Niagara to determine whether it properly formulated and implemented an affirmative action program in its 1972 renewal application. Though movants concede that the Commission considered and denied a similar request in its designation Order, they argue that the Commission may not have been aware that Cheektowaga is a suburb of Buffalo and that Station WNIA is located two miles from the large Buffalo black community. In addition, it is contended that the Commission did add a similar issue against WSAY, that the staff size, SMSA minority population, and past hiring practices of Stations WSAY and WNIA are substantially similar, and that the Commission's rationale for distinguishing between the two stations, *i.e.*, WNIA's May 1975 submission of an affirmative action program, is a distinction without a difference since until April 1976, WNIA failed to make any attempt to implement its 1975 "paper" proposals.

12. The Board will deny movants' request. The Commission's designation Order contains a reasoned analysis of these matters (see Order, *supra*, at paras. 51–53), and allegations that the Commission failed to consider the proximity of the Cheektowaga and Buffalo communities are based solely on speculation. Moreover, no new facts of note have been presented to the Board which were not before the Commission at the time it declined to specify an equal employment issue against Niagara. See *Atlantic Broadcasting Co. (WUST), supra.*[12]

PUBLIC FILES ISSUE (REQUESTED ISSUE (b))

13. Movants contend that though the Commission added issues against both applicants to determine whether they had violated Rule 1.526 relating to the maintenance of records for public inspection, additional issues are now warranted to determine whether Federal and Niagara have continued to violate the Commission's rules in this regard subsequent to release of the designation Order on May 12, 1976. In support, movants allege that they were initially denied access to the WSAY files during normal business hours on June 2, 1976, and that an inspection of the WNIA files on June 3, 1976, revealed that they are still substantially incomplete. However, the Board agrees with the Bureau that the requested issues are not warranted since any continuing violation of the Commission's public file and inspection rules may be fully explored under the Rule 1.526 issues already designated by the Commission. This request more properly relates to the scope of the evidence which may be adduced under the existing public file issues and, as such, any request for clarification must be initially addressed to the presiding Judge. See *John M. Spottswood*, 32 FCC 2d 487, 23 RR 2d 248 (Rev. Bd. 1971) and cases cited therein.

EX PARTE ISSUE (REQUESTED ISSUE (c))

14. Movants assert that the applicants have violated the Commission's *ex parte* rules on two separate occasions. The first instance allegedly occurred in September 1975 when papers relating to the prospective sale of Station WSAY were filed by Federal with the Commission. Movants contend that they were never served with copies of these documents and that this failure seriously prejudiced their interests as they would have immediately petitioned for judicial review of the Commission's "dilatory" failure to expedite these proceedings if they had been aware of the proposed sale. The second alleged violation involved a May 21, 1976 letter by the applicants to the Commission's General Counsel requesting a meeting to discuss the instant proceeding. Though movants acknowledge that they were each informed of the requested meeting by telephone on or about May 21, 1976, they argue that the calls made to officers of NOW and the Director of Metro-Act were misleading and otherwise improper. Movants contend that during these calls the WSAY station manager represented that a conference had actually been scheduled for May 27, 1976, thereby misleading the parties into believing that they had no opportunity to object to the proposed meeting and, in addition, that the station manager improperly urged the individual parties to drop their complaints and withdraw from this proceeding.[13]

15. The ex parte rules, generally, prohibit a party from communicating with decision-making personnel regarding the merits or outcome of a restricted proceeding unless such communication is served on all other parties to the proceeding. See Rules 1.1201–1.1227. In the instant case, there is no indication that the September 1975 document relating to the sale of Station WSAY addressed any "substantive or procedural question

[10] The Board's conclusion in this regard is not altered by *Flower City Television Corp.*, 9 FCC 2d 264 (1964) which has been cited by movants as evidence that Federal was warned in an Initial Decision involving a prior application that it was mislogging institutionally supplied programming. Our review of that case indicates that it did not give clear notice that these programs would have been improperly classified as public affairs. See 9 FCC 2d at 502.

[11] This is not to say, however, that the amended station logs corrected all logging deficiencies. See *Federal Broadcasting System, Inc.*, FCC 76R–267, released November 9, 1976.

[12] As to allegations that Niagara was lax in its efforts to implement its equal employment proposal, see para. 53 of the designation Order, *supra.*

[13] In support movants attach an affidavit by a current Director and Corresponding Secretary of NOW who is an alleged recipient of one of these calls.

which is in dispute in this proceeding." See Rules Governing Ex Parte Communications, 1 FCC 2d 49, 5 RR 2d 1681 (1965); Rule 1.1205. Moreover, with regard to the May 21, 1976 letter, it appears that all parties were given prompt notice of the request for a meeting with the Commission's General Counsel and that they were subsequently served with copies of the May 21st letter itself. Furthermore, contacts by the WASY station manager with principals of NOW and Metro-Act clearly do not fall within the Commission's ex parte sanctions as NOW and Metro-Act are not Commission decision-making personnel. Consequently, there has been no violation of the ex parte rules, and movants' request will be denied. Finally, as to allegations that the WSAY station manager acted improperly during his calls to NOW and Metro-Act, it does not appear that the parties were prejudiced by his alleged statement that the meeting had already been scheduled, nor is there convincing evidence that the station manager used either harassment or misrepresentations in urging the parties to withdraw from this proceeding. Consequently, these allegations also fail to raise any questions requiring the designation of an issue. Cf. *Post-Newsweek Stations, Florida, Inc.*, 52 FCC 2d 887, 33 RR 2d 997 (Rev. Bd. 1975)."

"AD HOMINEM" ATTACKS ISSUE (REQUESTED ISSUE (d))

16. Movants next request addition of an issue to determine whether Federal has levied numerous unjustified "ad hominem" attacks against them in its pleadings as well as in the news media. In support, movants cite instances in which Federal has, in pleadings and letters filed with the Commission, accused movants of, inter alia, "possible perjury," "harassment," trying to "sabotage" military recruiting programs, "snooping in the confidential files of the FCC," exacting "actual monetary consideration" from other broadcast applicants which movants have challenged, and of "coercion." Movants further contend that in a April 2, 1973 Answer to Supplement to Petition to Deny, Federal suggested that ABC should be investigated by Congress, the FBI, and the OEO (ABC's funding agency) for OEO rule violations and for its "vicious attacks on all the military services of our country"; and that in a March 16, 1973 article in the Rochester Democrat and Chronicle, Gordon Brown, Federal's principal, accused ABC of "blackmail" and harassment." Movants argue that each of these accusations was entirely false and unwarranted and that they suffered "substantial and frightening" psychological pressure as a result. Finally, in its supplementary pleading filed October 26, 1976, movants contend that on June 22, 1976, and again on October 6, 1976, Gordon Brown attempted to intimidate David Honig, RBMC's representative in this proceeding, by informing him that he would be sued "if he did anything to disturb the contract for sale of WSAY" to Monroe Broadcasting.

17. While Federal argues in opposition that the Commission declined to designate an issue on the basis of similar or identical allegations, the Commission's failure to specifically consider and dispose of this request in its designation Order requires the Board to treat these matters on their merits. See Atlantic Broadcasting Co. (WUST), supra. Character or abuse of process issues are warranted where an applicant takes action which is reasonably and seriously calculated to harass or intimidate a petitioner to deny or other party with the aim of discouraging its rightful participation in Commission proceedings. See Chronicle Broadcasting Co., 19 FCC 2d 240, 16 RR 2d 1014 (Rev. Bd. 1969); Post-Newsweek Stations, Florida, Inc., supra.[15] In the instant case, while the Board views the allegations made against movants in pleadings and other material filed with the Commission as patently ill-tempered and generally unsupported, we have not been provided any substantial basis to believe that these matters constitute a deliberate, calculated effort to discourage movants' further participation in these proceedings. Furthermore, while we consider the statements made by Brown in the Rochester Democrat and Chronicle and the threats of a civil suit as far more serious and potentially damaging to movants, these matters also appear to constitute an unseemly display of bad temper arising from the stress of these protracted and heavily contested proceedings, rather than a calculated effort to discourage movants' rightful participation. Consequently, while the Board cannot and does not condone these actions and seriously warns Brown against further conduct of this kind, we do not believe a character qualifications issue is warranted on this basis at the present time.

TECHNICAL ISSUE (REQUESTED ISSUE (g))[16]

18. In support of their request for a technical qualifications issue, movants contend that WSAY, which was authorized to operate at 5000 watts, has been operating at only 1000 watts for a period of approximately four years. Although they acknowledge that the Commission declined to designate an issue on this basis since Federal received authority to operate at reduced power throughout this period, movants argue that the Commission failed to consider the fact that Federal has never made a realistic effort to repair its 5000 watt transmitter. In addition, it is alleged that even though Federal had temporarily regained its 5000 watt capacity at the time the designation Order was released, it is again operating at only 1000 watts.

19. Both Federal and the Broadcast Bureau oppose the addition of a technical issue, arguing that the Commission fully considered this matter and determined that all technical questions could be resolved by requiring Federal to amend its 1975 renewal application with additional technical data, citing Order, supra, at paras. 40, 65. Additionally, Federal argues that a consulting engineer will be visiting WSAY in the near future to provide technical advice and that, at any rate, the pending sale of that station will guarantee further technical improvement.

20. In reply, movants assert that the new technical data submitted by Federal on June 11, 1976, pursuant to the Commission's designation Order, evidences additional technical violations that warrant further inquiry. Specifically, movants argue that this data substantiates their claim that WSAY is currently operating at 1000 watts; that it further indicates that the WSAY tower lights were not in working order during five of the seven days in Federal's composite week; that readings of field intensity were not made every thirty days as required; that measurements of phase and percentage of normal radiator current were not made at regular frequent intervals; that the phase readings indicate that polarities are of the wrong sign; that Federal's tower readings vary significantly from those specified in its license; and that remote base current ratios for the southeast and northwest towers exceed those authorized in Federal's license. In sum, movants contend that the WSAY technical violations deprive outlaying residents in the service area of reception capacity, that advertisers thereby lose a significant amount of their listening audience, that community groups utilizing WSAY are similarly disadvantaged, and that WSAY is therefore clearly not operating in the public interest.

21. The Board agrees with the Bureau

[14] For the first time in their reply pleading, movants have raised an issue with respect to the applicants' failure to comply with the Commission's public notice rules when filing their April 5, 1976 amendments to their applications, citing Rule 1.578. In view of the fact that these amendments had been on file for three months when movants filed their motion to enlarge, the Board sees no justification for raising this issue for the first time in a reply pleading. At any rate, on their face the April 5, 1976 filings do not appear to constitute a major amendment within the meaning of Rule 1.578(a) (see *Sanford Cloud, Jr.*, 22 RR 2d 1119 (1971)), and movants have not set forth specific allegations of fact which would dictate a contrary finding (see Rule 1.229(c)).

[15] Where, as here, a citizen group is alleged to be the object of such harassment, particularly careful scrutiny of the applicants' conduct is required, as the public may be more timid than competing applicants in pursuing its right to participate in Commission proceedings. See Chronicle Broadcasting Co., 40 FCC 2d 775, 801, 27 RR 2d 743, 772 (1973).

[16] Requested issue (f) relating to the broadcast of program-length commercials has been withdrawn by movants in their reply pleading. In view of the fact that no serious questions were raised by these allegations in the first instance, they will not be considered further herein.

that the Commission engaged in a reasoned analysis of the technical allegations before it, and that consequently the Board has no authority to consider these matters further. See *Atlantic Broadcasting Co. (WUST), supra.* Movants' assertion that the Commission failed to consider certain notices of violation and other matters available to it in Commission files is based solely on speculation and surmise. Nonetheless, the allegations contained in movants' reply pleading based on the new technical data submitted by Federal on June 11, 1976, were not before the Commission at the time it issued its designation Order and consequently may properly be considered by the Board at this time. While the majority of these allegations fail to raise serious and substantial questions of technical inadequacy,[17] the Board is concerned by allegations that WSAY was again operating at 1000 watts on May 3, 1976 (just after the adoption of the designation Order) and on June 1, 1976, and by the absence of definitive information indicating that it has subsequently regained a capacity to operate at 5000 watts.[18] In light of the undisputed allegation that WSAY is not operating at the power specified in its license and that it has no present authorization to operate at lower power, the Board cannot conclude that WSAY is technically qualified to remain a Commission licensee. Cf. *DuPage County Broadcasting, Inc.*, 21 FCC 2d 395, 18 RR 2d 321 (1970). Consequently, we will designate a technical qualifications issue requiring that Federal submit evidence of current ability to operate at its licensed power. However, we wish to emphasize that if Federal is able to meet this requirement, further inquiry into its technical qualifications is unwarranted pursuant to the Commission's determination that past technical deficiencies did not warrant further inquiry at hearing and in light of movants' failure to raise significant questions regarding the remainder of Federal's newly submitted technical data.

OUTDATED RATE CARDS ISSUE (REQUEST ISSUE (h))

22. In support of its next request, movants allege that for at least eleven months after WSAY began operating at a reduced power of 1000 watts on January 8, 1971, it continued to use rate cards identifying itself as a "5000 watt" station.[19] Movants assert that these rate cards also incorrectly identify WSAY as a "Night and Day" station, Rochester as the "20th market," and that they invited political advertising from representatives of "recognized political parties" only in violation of the Commission's political broadcasting rules. Additionally, it is alleged that on January 1, 1973, Federal introduced a new rate card which made no mention of the station's current operating power thereby effectively leading advertisers into believing that WSAY was operating at its licensed capacity.[20] Finally, it is alleged that WSAY broadcast promotional announcements identifying itself as having "5000 powerful watts" for one month after its power was reduced in January 1971, and that a similar announcement was broadcast over WSAY as late as May 31, 1973. The Broadcast Bureau, in its comments, supports addition of the requested issue.

23. While Federal argues in opposition that the Commission summarily denied a request for a rate card issue in its designation Order, our review of that Order reveals that the Commission did not consider or dispose of these allegations. Consequently, the Board is required to consider movants' request on its merits. *Atlantic Broadcasting Co. (WUST)*, supra. In its opposition, Federal has made no attempt to deny allegations that it continued to distribute rate cards and broadcast promotional announcements identifying itself as a 5000 watt station during the period in which it was operating at 1000 watts. Moreover, the evidence before us indicates that at least one such promotional announcement was broadcast as long as two years after the station's power had been reduced. Consequently, serious questions have been raised with regard to whether Federal has violated the Commission's stringent standards requiring full disclosure and complete candor by licensees with regard to representations of station power and coverage made to the public and potential advertisers. See *Motion for Declaratory Ruling on Broadcast Station's Promotional Practices*, FCC 75-808, 34 RR 2d 741 (1975). Accordingly, an appropriate issue will be designated.[21] *Cf. J. Sherwood, Inc.*, FCC 76R-226, released August 10, 1976; *Key Broadcasting Corp.*, 40 FCC 2d 526, 27 RR 2d 208 (Rev. Bd. 1973).

HYPOED RATINGS (REQUESTED ISSUE (i))

24. Movants contend that in the spring and/or fall of 1972, 1973, and 1974, WSAY broadcast announcements requesting the listening public to identify themselves as "WSAY listeners" if interviewed by a radio rating service. It is argued that this conduct constituted an attempt to hypo WSAY station ratings. However, the Commission considered and disposed of these allegations in its designation Order (see Order, supra, at note 2) and no evidence of note has been presented to the Board which was not before the Commission at that time. Accordingly, this request will be denied pursuant to the doctrine of *Atlantic Broadcasting Co. (WUST)*, supra.

RACIAL DISCRIMINATION IN THE ATTEMPTED SALE OF WSAY (REQUESTED ISSUE (k))

25. In support of allegations that Federal discriminated on the basis of race in its attempt to sell WSAY, movants contend that Monroe County Broadcasters, Ltd., a group of Rochester area Black business and community leaders, approached Federal in 1967 and again in 1973 to express an interest in purchasing WSAY for $550,000.[22] In both instances, Federal allegedly rejected the offering price as too low. However, movants assert that an "asset purchase agreement" filed with the Commission on March 5, 1976, indicates that Federal has subsequently negotiated an agreement of sale with a white- non-local buyer without making any attempt to contact Monroe County Broadcasters, Ltd. It is alleged that these facts indicate that Federal deliberately sought to avoid black ownership of WSAY, and movants assert that a disqualifying issue is warranted on this basis, citing *TV-9, Inc.*, 161 U.S. App. D.C. 347, 495 F. 2d 929 (1973).

26. The facts as alleged by movants are insufficient to raise any substantial

[17] Specifically, it appears that Federal did notify the FAA of its malfunctioning tower lights as required by Rule 17.49; that field intensity readings were made at intervals of 26-37 days which constitutes a de minimis violation of the Commission's thirty-day requirement; that normal radiator current measurements were made in compliance with Rule 73.113(a)(2); and that the polarities used are correct in the context of Federal's logging procedures. In addition, movants have failed to show that the variance between Federal's directional array tower phase readings and those specified in its application is sufficient to affect the WSAY directional pattern, nor have they established that the variance between Federal's remote base current ratios and those in its application exceed the 5% tolerance allowed by Rule 73.52(b). At any rate, Federal currently has Commission authorization to operate at variance on antenna phases and current ratios.

[18] While Federal did receive temporary Commission authorization to operate at 1000 watts on June 4, 1976, this authorization expired on July 4, 1976, and the Board has found nothing in Commission files to indicate that WSAY has regained the capacity to operate at its licensed power.

[19] In support, it is alleged that Federal filed such a rate card with the Commission on October 8, 1971, and that movants themselves received such a rate card from Station WSAY in November 1971.

[20] Movants note in this regard that the 1973 edition of the Broadcasting Yearbook, which is available as a reference for potential advertisers, continued to list WSAY as operating at 5000 watts.

[21] The Board does not view movants' remaining allegations as sufficient to require further inquiry. First, while WSAY was identified as a "Night and Day" station, there is no indication that this description would mislead prospective advertisers into believing that WSAY operates at more than the 18.5 hours daily and 16.5 hours on Sunday specified in its 1972 renewal application. Second, Federal's rate card stated that its characterization of Rochester as the "20th market" was based on SRDS tables relating to consumer spendable income per household and the Board has verified the accuracy of this representation. Finally, movants have failed to allege specific instances where Federal has refused time to political candidates other than those belonging to "recognized political parties" in violation of Rule 73.290.

[22] Though movants' motion to enlarge issues also contained allegations pertaining to the efforts of another local black organization, Metropolitan Media Group, to purchase WSAY, it has withdrawn these allegations in its addenda to reply, filed August 20, 1976, due to an inability to obtain supporting documentation.

questions regarding the propriety of Federal's actions in negotiating for the sale of WSAY. Thus, movants do not dispute Federal's claim that the 1967 and 1973 negotiations between Federal and Monroe County Broadcasters, were terminated by mutual agreement based on an inability to come to terms regarding an appropriate sale price. Furthermore, there is no assertion that Monroe expressed a continuing interest in purchasing WSAY subsequent to 1973 and, in fact, Federal's affiant, who participated in the 1973 negotiations,[33] states that after bargaining efforts broke down, it was understood by all parties that Monroe was abandoning its efforts to purchase WSAY in favor of seeking an FM station in the Rochester area. Since there is no requirement that Commission licensees seek out minority buyers for their stations, movants' request for an issue will be denied. Cf. Communications Act of 1934, as amended, 47 U.S.C. § 310(b).[34]

LACK OF CONTROL OVER STATION OPERATIONS (REQUESTED ISSUE (l))

27. Movants contend that there are several factors indicating that Gordon Brown (who is a principal of both Federal and Niagara) has exercised insufficient control over WNIA station operations. Specifically, movants contend that while WNIA and WSAY have similar formats and WNIA's market is over twice as large as that of WSAY, WNIA showed a 1975 loss of $35,479, while WSAY profited by $6,656 during the same period. Additionally, it is contended that logging practices at WNIA are inaccurate and differ from those at WSAY; that Brown does not devote sufficient time to the operation of WNIA; that the WNIA station manager has no apparent authority to undertake basic management functions such as the initiation of public affairs programming; and that consequently the station is not operating with sufficient management control. The Review Board will deny movants' request. Allegations that losses at WNIA and inaccuracies in the WNIA station logs are attributable to lack of management control are purely speculative. Similarly, movants have failed to attach affidavits by persons having personal knowledge of the facts in support of their assertion that Brown devotes insufficient time to the operation of WNIA and that the WNIA station manager has insufficient authority. Accordingly, movants' request must be denied for failure to comply with the requirements of Rule 1.229(d).

DILIGENCE ISSUES (REQUESTED ISSUES (m) AND (o))

28. Movants next request issues to determine whether Federal and Niagara are reasonably aware of Commission rules and to determine whether they have demonstrated such ineptness as to reflect on their qualifications as Commission licensees. In support of their first request, movants allege that neither applicant is a novice in the communications field, that each applicant repeatedly violated the Commission's public file, ascertainment, logging, programming, and equal employment rules, among others, and that this pattern of non-compliance evidences a deliberate disregard or lack of awareness of Commission standards. Movants base their request for ineptness issues, inter alia, on allegations that no sales personnel were hired for the stations, that technical problems at WSAY remained unresolved for a four year period, that an affirmative action plan has never been submitted for WNIA, and that rate card, public file, and ex parte violations by the applicants appear to have been based in part on inept management.

29. The Board will deny the requested issues. First, we see no reason, based on the conclusory allegations before us, to order an inquiry into what steps the applicants have taken to become aware of Commission requirements, nor what purpose would be served by such an inquiry. Second, ineptness issues are warranted only where an applicant's conduct involves "relevant matters of major significance" and where the conduct discloses "a pattern of carelessness and inadvertence." *Rust Communications Group, Inc., supra; Folkways Broadcasting Co., Inc.*, 26 FCC 2d 175, 20 RR 2d 528 (Rev. Bd. 1970). In the opinion of the Board, movants' allegations fail to meet these standards. Thus, while several issues have been designated in this proceeding against each applicant, movants have not alleged with specificity that the matters underlying these issues constitute a pattern of carelessness or other improper behavior which would call into question the applicants' overall conduct as Commission licensees. Consequently, we believe that the existing issues provide ample opportunity to explore the alleged rule violations cited by movants without specification of additional issues. *Cf. Rust Communications Group, Inc., supra.*

FINANCIAL ISSUES (REQUESTED ISSUE (n))

30. In support of their request for a financial issue, movants contend that the applicants themselves have requested issues relating to the extent of Gordon Brown's personal financing of Stations WSAY and WNIA, and that this request constitutes a virtual admission that the stations have experienced significant financial difficulties. Moreover, according to movants, the applicants have admitted that financial difficulties caused the discontinuance of certain public affairs programming, noncompliance with the Commission's technical rules, defective ascertainment efforts, and other station deficiencies. Consequently, it is alleged that a "service to finance nexus" has been established and an appropriate financial issue is warranted. Additionally, in a reply pleading filed December 9, 1976, RBMC requests that the Board take official notice of Niagara's request for additional authority to remain silent, filed with the Commission on December 8, 1976. RBMC contends that this request is predicated on a lack of adequate working capital, and that Niagara has thus conceded that it lacks the financial capability to continue operation of WNIA.

31. The Board agrees with the Broadcast Bureau that the allegations made by movants in their petition to enlarge are insufficient to warrant the addition of specific financial issues.[35] However, we will take official notice of the fact that WNIA ceased operations on June 27, 1976; that the Commission, by Order, FCC 76-831, released September 9, 1976, granted Niagara authority to remain silent until December 8, 1976, based on a shortage of working capital; and that on December 8, 1976, Niagara filed a request for additional authority to remain silent for an indeterminate period alleging a further deterioration of Brown's physical condition and further depletion of its financial resources. We agree with the Brodcast Bureau, as argued in its comments filed on November 29, 1976, that this request for additional authority to remain silent raises serious questions as to whether Niagara will regain the financial capacity to operate WNIA, and accordingly we will, on our own motion, designate an appropriate financial issue. *Cf. Application For Renewal of License*, FCC 76-264, 37 RR 2d 1 (1976).

MISREPRESENTATION ISSUE (REQUESTED ISSUE (p))

32. Movants base their request for a misrepresentation issue on numerous allegations made against both applicants. For the sake of clarity, the Board will consider and dispose of each allegation separately. First, it is contended that WSAY's 1972 and 1975 renewal applications claim that local blacks express pleasure upon seeing the WSAY news car, but that WSAY in fact has no news car. This allegation is without substance, as the WSAY application merely made reference to bystanders' reactions to the WSAY call letters displayed on employee vehicles and did not claim that WSAY owned a news car. Second, it is contended that although the applicants claim that their 1972 and 1975 lists of ascertained needs were based on information gathered through local telephone calls, these lists constituted the text of on-

[33] Federal has attached the affidavit to John R. Garrity, a Rochester attorney who states that he acted as an intermediary between Federal and Monroe during the 1973 negotiations.

[34] *TV-9, Inc., supra*, cited by movants, is inapposite as that case merely stands for the proposition that under certain circumstances the Commission will award comparative merit to an applicant with minority ownership.

[35] We note that the applicants' request for financial issues, referred to by movants in support of their financial request, has been denied. See Order, FCC 76R-265, released November 10, 1976.

the-air broadcasts made prior to the specified calls. However, there is no evidence controverting the applicants' claim that the list of needs contained in the broadcasts was subsequently affirmed by telephone calls and other oral communications from the public. Consequently, substantial questions of misrepresentation have not been raised. Third, it is argued that WSAY's complete list of ascertained needs was not prepared until shortly before it was submitted to the Commission for the first time in 1976, contrary to the applicant's representations. This allegation is also without merit, as Federal has admitted that the final list was compiled in 1976, but states that it was based on community leader interview forms which were made during its 1972 ascertainment efforts.[24] Fourth, movants aver that although WSAY has no local news operation, its 1972 application claims that 40% of the station's news was local and state related. This allegation does not raise a substantial question of misrepresentation since movants have not refuted Federal's claim, made in its 1972 application, that local news is gathered by mail, while state and area news is obtained from a United Press teletype service. Moreover, to the extent that this allegation relates to inadequate coverage of local news, it may be fully explored under the programming responsiveness issue already designated by the Commission.

33. Next, it is contended that WNIA has improperly characterized certain of its programs as meeting specific community needs. However, movants have not shown that Niagara's statements in this regard reflect anything other than a good faith judgment. Movants also characterize as "impossible" Niagara's claim that its station has received no complaint letters; however, this allegation is based solely on speculation and surmise. Next, movants allege that WSAY gave the Commission and the press contradictory explanations for its cancellation of the Jack Anderson program. However, a copy of the press statement has not been submitted to the Board, nor have movants shown that any contradiction which may exist resulted from deliberate misrepresentation. Finally, it is asserted that the applicants' ad hominem attacks against movants (see para. 16, supra) contained "blatant distortion and untruths." However, the "attacks" referred to do not appear to be based on deliberate distortions of factual evidence, but rather, as noted in para. 17, supra, appear to constitute patently ill-tempered and generally unsupported charges which, in our view, do not raise serious questions of misrepresentation. In sum, the Board does not find that the allegations of misrepresentation contained in movants' motion to enlarge issues, whether considered singly or cumulatively, are sufficient to require further inquiry.

34. However, in its supplement to motion to enlarge and modify issues, filed October 26, 1976, RBMC has raised numerous additional allegations of misrepresentation. While, as noted at note 2, supra, the majority of these matters do not raise questions of potential decisional significance which would warrant consideration despite the untimely filing of this pleading, there is one matter which appears to raise serious questions of misrepresentation. Thus, RBMC avers that while Niagara's 1975 supplemental renewal application represents that two news teletype services[27] were added to the station's news programming service, Niagara's October 1, 1976 response to Interrogatory 42 indicates that these services were terminated in January 1975. In opposition, the applicants argue that Niagara's failure to mention termination of these services was a "minor error" since the news material supplied by these teletypes was continued with alternative sources.[28] The Board cannot agree that this matter constitutes a "minor error" in view of the fact that Niagara's 1972 application claimed that over 90% of WNIA's news was local and community related and yet, other than these two teletype services, WNIA apparently relies largely on mail from the general public as its source for local news programming. In this context, the alleged misrepresentation takes on a significance which it might not otherwise have. Consequently, we agree with the Broadcast Bureau that further inquiry is warranted into this matter,[29] and an appropriate issue will be added.

35. Finally, as noted at note 2, supra, RBMC's further supplement to motion to enlarge and modify issues, filed December 13, 1976, is based on newly discovered evidence and therefore warrants consideration by the Board. In that pleading, RBMC alleges that ascertainment and misrepresentation issues should be added on the basis of discrepancies between the applicant's original representations regarding their 1972 public surveys and the newly discovered 1972 public survey worksheets. Specifically, RBMC alleges, inter alia, that worksheets for 23 of Niagara's claimed 212 contacts with the general public are missing; that Federal apparently only contacted 138 of its claimed 255 member sample; that the applicants' surveys appear to have been conducted by parties other than those originally represented; that Niagara's survey does not appear to have been conducted on a random basis; and that "prompting" of the public appears to have occurred during the contacts. In opposition, Federal and Niagara contend, inter alia, that worksheets for only 19 of Niagara's claimed public survey contacts are missing; that the worksheets evidence at least 202 contacts by Federal; and that the five year passage of time accounts for the applicant's current inability to substantiate the remainder of their 1972 public survey contacts. The Board agrees with the Bureau that the requested issues are unwarranted. As to the ascertainment request, we do not view these new allegations as sufficiently serious to alter the Commission's original determination that issues going to the applicant's 1972 ascertainment efforts would be inappropriate in this case (see discussion at para. 3, supra). Moreover, the alleged discrepancies between the applicants' original representations and their 1972 worksheets are not sufficient to raise substantial questions of misrepresentation. Specifically, RBMC's reliance on missing worksheets does not adequately establish that fewer persons were contacted by the applicants than originally represented. Compare *California Stereo, Inc.*, 39 FCC 2d 401, 26 RR 2d 887 (Rev. Bd. 1973). We note, however, that the alleged deficiencies in the applicants' 1972 surveys may be pertinent to the programming responsiveness issues already designated by the Commission.

36. *Accordingly, it is ordered*, That the "good cause showing for late filed motion to modify and enlarge issues," filed June 8, 1976, by Rochester Black Media Coalition, Action for a Better Community, Inc., Genesee Valley Chapter of the National Organization for Women, and Build, Inc., is granted; and

37. *It is further ordered*, That the motion to accept late filed opposition to supplemental request for oral argument, filed September 16, 1976, by Rochester Black Media Coalition, is granted; and

38. *It is further ordered*, That the supplemental request for oral argument, filed September 3, 1976, by Federal Broadcasting System, Inc., and Niagara Broadcasting System, is denied; and

39. *It is further ordered*, That the motion to dismiss supplement to motion to enlarge and modify issues, filed November 24, 1976, by Federal Broadcasting System, Inc. and Niagara Broadcasting System, is denied to the extent indicated herein, and is granted in all other respects; and

40. *It is further ordered*, That the request for permission to file consolidated response, filed December 23, 1976, by Federal Broadcasting System, Inc. and Niagara Broadcasting System, is granted to the extent indicated herein, and is denied in all other respects; and

41. *It is further ordered*, That the motion to modify and enlarge issues, filed

[24] Federal's contention in this regard has been substantiated by the submission of its 1972 community leader interview forms with its Motion for Summary Judgment, filed September 17, 1976 at Volume III.

[27] One of these services supplies information on school closings and other significant local news, while the other supplies information on weather conditions.

[28] The applicants also correctly note that the statement referred to by movant regarding the addition of these teletypes was included under the "Past Programming" section of Niagara's 1972 application. Under the "Future Programming" section of its 1972 application, Niagara stated "Essentially the same as past programming."

[29] Though the Bureau also supports addition of a misrepresentation issue on the basis of an apparent discrepancy between Federal's claim that records are not kept on incumbent employees and movants' assertion that such records have been kept on one incumbent black employee, the Board does not view this matter as sufficiently significant to warrant further inquiry.

June 8, 1976, by Rochester Black Media Coalition, Action for a Better Community, Inc., Genesee Valley Chapter of the National Organization for Women, and Build, Inc., is granted to the extent indicated herein, and is denied in all other respects; and the issues in this proceeding are enlarged to include the following issues:

(1) With respect to the application of Federal Broadcasting System, Inc., for renewal of license for Station WSAY, Rochester, New York:

(a) To determine whether Federal Broadcasting System, Inc. made reasonable and good faith efforts to carry out its non-entertainment programming proposals as set forth in its 1969 and 1972 applications for renewal of license for Station WSAY during the 1969–1972 and 1972–1975 license terms.

(b) To determine whether Federal Broadcasting System, Inc., has resumed and is able to maintain operation of Station WSAY at its licensed capacity of 5000 watts.

(c) To determine whether Federal Broadcasting System, Inc., misrepresented the actual operating power of Station WSAY to the public and to potential advertisers.

(d) To determine, in light of the evidence adduced under the above issues, whether Federal Broadcasting System, Inc. has the requisite qualifications to be a Commission licensee.

(2) With respect to the application of Niagara Broadcasting System for renewal of license for Station WNIA, Cheektowaga, New York:

(a) To determine whether Niagara Broadcasting System made reasonable and good faith efforts to carry out its non-entertainment programming proposals as set forth in its 1969 and 1972 applications for renewal of license for Station WNIA during the 1969–1972 and 1972–1975 license terms.

(b) To determine whether Niagara Broadcasting System is financially qualified to resume and maintain WNIA station operations.

(c) To determine whether Niagara Broadcasting System misrepresented the news teletype services then available at WNIA in its 1975 supplemental renewal application.

(d) To determine, in light of the evidence adduced pursuant to the above issues, whether Niagara Broadcasting System has the requisite qualifications to be a Commission licensee.

42. *It is further ordered*, That the burden of proceeding with the introduction of evidence under issue (1)(c) shall be on Rochester Black Media Coalition; Genessee Valley Chapter of the National Organization for Women and Build, Inc.; and that the burden of proceeding under issues (1)(a) and (1)(b) and the burden of proof with respect to issues (1)(a)–(1)(d) shall be on Federal Broadcasting System, Inc.

43. *It is further ordered*, That the burden of proceeding with the introduction of evidence under issue (2)(c) shall be on Rochester Black Media Coalition; and that the burden of proceeding under issues (2)(a) and (2)(b) and the burden of proof under issues (2)(a)–(2)(d) shall be on Niagara Broadcasting System.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-3624 Filed 2-3-77;8:45 am]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

[Report No. 843]

JANUARY 31, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See § 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. [See § 1.227(b) (3) and 21.30(b) of the Commission's Rules.]

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING
DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20659–CD–P–77 Airphone Company, Inc. (New), C.P. for a new station to operate on 454.125 MHz to be located at Mt. Tom, Holyoke, Mass.

20660–CD–P–77 AAA Telephone Answering Service (New), C.P. for a new 1-way station to operate on 35.22 MHz to be located at 844 Government Street, Baton Rouge, La.

20661–CD–P–77 South Shore Radio-Telephone, Inc. (KSB591), C.P. for additional standby facilities to operate on 152.210 MHz at a new Loc. No. 7: 2915 Bernice Road, Lansing, Ill.

20662–CD–MP–77 Airsignal International, Inc. (KQB688), C.P. to change antenna system and replace transmitter operating on 454.075 MHz at Loc. No. 1: 1179 Country Rd. No. 44, (Approx. 2.2 mi. ENE of Hinckley, Ohio.

20663–CD–MP–77 South Shore Radio-Telephone, Inc. (KTS201), C.P. to change antenna system operating on 158.70 MHz located at 2915 Bernice Road, Lansing, Ill.

20665–CD–P–77 Message Center, Inc. (New), C.P. for a new 1-way station to operate on 43.58 MHz to be located at 750 Main Street, Hartford, Conn.

20666–CD–P–77 Kearsarge Telephone Company (KUS300), C.P. to change antenna system operating on 152.57 MHz located at Main Street, New London, N.H.

20667–CD–P–77 Pacific Northwest Bell Telephone Company (KOE256), C.P. to replace transmitter operating on 152.63 MHz located 1.8 Miles NW of Bend, Oreg.

20668–CD–MP–77 Indiana Bell Telephone Company, Inc. (KSD326), C.P. to relocate facilities operating on 152.84 MHz at Loc. No. 8: 2727 Central Avenue, Columbus, Ind.

20669–CD–P–77 Two-Way Radio Communications Company of Kansas (KAF650), C.P. to change frequency from 152.09 MHz to 152.18 MHz at Loc. No. 4: 1500' East of City Limits, Liberal, Kans.

20670–CD–P–77 General Telephone Company of California (KRM985), C.P. for additional Test facilities to operate on 459.750 MHz located at 454 South Patterson Avenue, Goleta, Calif.

20671–CD–MP–(4)–77 Arnold E. Anderson dba Concho Communications (KUD212), C.P. to relocate facilities operating on 454.075 and 454.125 MHz, Control at Loc. No. 2: 211 South David Street, San Angelo, Tex.; and to relocate facilities operating on 152.21 MHz, Base and 459.125 MHz, Repeater at Loc. No. 3: 2¾ mi. NNE of Christoval, Tex.

20672–CD–P–(2)–77 Southwestern Bell Telephone Company (KKI444), C.P. to change power operating on 152.57 MHz and for additional facilities to operate on 152.51 MHz located 4.5 mi. west of Elk City, Okla.

20673–CD–P–(2)–77 San Juan Radiotelephone Corporation (KQZ767), C.P. for additional facilities to operate on 152.24 MHz and 158.70 MHz at a new Loc. No. 4: Cerro de Punta, 3 miles South of Jayuya, P.R.

20674–CD–P–(2)–77 Mobilphone of Texas, Inc. (KKX709), C.P. to delete frequencies operating on 459.025, 459.075, 459.125 and 459.175 MHz, Repeater and for additional facilities to operate on 2129.0 MHz, Repeater at Loc. No. 1: 6.8 miles SW of Merkel, Tex.; and to delete control frequencies operating on 454.025, 454.075, 454.125 and 454.175 MHz and for additional control facilities to operate on 2179.0 MHz at Loc. No. 2: Morris Bldg., 1129½ North Second Street, Abilene, Tex.

20675–CD–P–(2)–77 Intrastate Radio Telephone, Inc. of San Bernardino (New), C.P. for a new 1-way station to operate on 152.24 MHz at new Loc. No. 1: 2 miles east of Crestline; and same facilities at new Loc. No. 2: Little Mountain NNW of San Bernardino, Calif.

CORRECTIONS

20555-CD-P-77 Southwestern Bell Telephone Company (New). Correct entry that appeared on PN No. 840, dated January 10, 1977 to read: C.P. for a new station to operate on 152.84 MHz at a new Loc. No. 1: IH 20 and State Highway 349, Midland, Tex. and same facilities at a new Loc. No. 2: 1211 N. Whitaker, Odessa, Tex.

20579-CD-AL-77 Alden Seitz and David K. Seitz dba Mobilfone Exchange of Sandusky. Correct location to read: Sandusky, Ohio. All other particulars are to remain the same as reported on PN No. 841, dated January 17, 1977.

MAJOR AMENDMENT

20257-CD-P-(3)-77 Salinas Valley Radio Telephone Company (KMA837), amend base frequency 454.300 to read 454.075 MHz and change effective radiated power on 454.250 MHz. All other particulars are to remain the same as reported on PN No. 834, dated November 29, 1976.

22816-CD-P-76 Leesburg Communications & Answering Service, Inc. (New), Leesburg, Fla. Amend application to change frequency from 158.70 MHz to 152.24 MHz and to change output power and antenna used.

22573-CD-P-(2)-76 Lester B. Biddle, Jr. (New), Panama City, Fla. Amend application to change frequency from 454.200 MHz to 454.150 MHz. All other particulars are to remain unchanged.

RURAL RADIO

60139-CR-P-77 The Mountain States Telephone and Telegraph Company, (New), C.P. for a new Rural Subscriber station to operate on 157.86 MHz to be located 12.6 miles north of Pavillion, Wyo.

POINT TO POINT MICROWAVE RADIO SERVICE

1121-CF-P-77 The Mountain States Telephone and Telegraph Company (KCO83), 3 miles SW of Greeley, Colo. Lat 40°23'01" N., Long. 104°44'11" W., C.P. to add frequency 6004.5H MHz toward Milliken, Colo.

1160-CF-P-77 Central Telephone Company of Florida (KIQ63), 218 East Park Avenue, Tallahassee, Fla. Lat. 30°26'32" N., Long. 84°16'47" W., C.P. to add frequencies 4030.0V 4090.0H 4110.0V 4170.0H MHz toward Newport, Fla.

1161-CF-P-77 Mountain States Telephone and Telegraph Company (WAH398), Crystal Dam 13.6 miles East of Montrose, Colo. C.P. to increase antenna structure height; move antenna on frequency 2178 0V MHz toward Crystal Dam passive reflector and from the passive reflector to Ftzptrkmesa.

1187-CF-P-77 South Central Bell Telephone Company (KJL97), 38 Washington Avenue, Montgomery, Ala. C.P. to add a new point of communication frequencies 10835.0V 10915.0V MHz toward Houston Hill, Ala. on azimuth 97.12°.

1188-CF-P-77 Same (KJA21), Houston Hill 1316 Adams Avenue, Montgomery, Ala. Lat. 32°22'26" N., Long. 86°17'24" W., C.P. to add a new point of communication on frequencies 11285.0V 11365.0V MHz toward Montgomery 1, Ala. on azimuth 277.1° and to change frequencies 6390.0H, 6271.4H to 6226.9V MHz toward Ramer, Ala.

1189-CF-P-77 Same (KJA22), 2.3 miles SSW of Ramer, Ala. Lat. 32°01'15" N., Long. 86°14'58" W., C.P. to change frequencies 5989.7H, 6108.3H to 6034.2H, 6152.8H toward Houston Hill and change frequencies 6137.9H, 6019.3H to 5945.2H, 5974.8V MHz toward Troy, Ala.

1190-CF-P-77 Same (KJA25), 1.0 mile NE of Troy, Ala. Lat. 31°49'12" N., Long. 85°57'39" W., C.P. to change frequencies 6360.3H, 6241.7H to 6286.2H, 6404.8H MHz toward Ramer, Ala.

1204-CF-P-77 New York Telephone Company (KEL60), 20 S. Hamilton Ave., Poughkpsie, N.Y. Lat. 41°42'04" N., Long. 73°55'25" W., C.P. to add new point communication on frequencies 10875V, 10955H, 11035V, 10875H, 10955V, 11035H MHz toward Poughquag, N.Y. on azimuth 125.21°.

1205-CF-P-77 Same (New), Depot Hill Rd. Poughquag, N.Y. Lat. 41°34'22" N., Long. 73°40'55" W., C.P. for a new station on frequencies 11325V, 11405H, 11485V, 11325H, 11405V, 11485H MHz toward Poughkeepsie, N.Y. on azimuth 305.37 degrees and 11365V, 1144H, 11605V, 11365H, 11445V, 11605H MHz toward Put. Valley, N.Y. on azimuth 226.76°.

1206-CF-P-77 New York Telephone Company (New) Route 301, Cold Spring, N.Y. Lat. 41°25'54" N., Long. 73°52'52" W., C.P. for a new station on frequencies 10915V, 10995H, 11155V, 10915H, 10995V, 11155H MHz toward Poughquag, N.Y. on azimuth 46.63° and 11035V, 10795H, 11115V, 11035H, 10795V, 11115H MHz toward Ossining, N.Y. on azimuth 171.09°.

1207-CF-P-77 Same (New), Pinesbridge Road, Ossining, N.Y. Lat. 41°10'58" N., Long. 73°49'46" W., C.P. for a new station on frequencies 11485V, 11245H, 11565V, 11485H, 11245V, 11565H MHz toward Put. Valley, N.Y. on azimuth 351.12° and 11445V, 11605H, 11365V, 11445H, 11605V, 11365H MHz toward Nyack, N.Y. on azimuth 216.45°.

1208-CF-P-77 Same (New), 15 Cedar St., Nyack, N.Y. Lat. 41°05'25" N., Long. 73°55'11" W., C.P. for a new station on frequencies 10995V, 11155H, 10915V, 10995H, 11155V, 10915H MHz toward Ossining, N.Y. on azimuth 36.39°.

1257-CF-P-77 American Telephone and Telegraph Company (KIP57), 36 NE Second Street, Miami, Fla. Lat. 25°46'32" N., Long. 80°11'36" W., C.P. to add frequency 3830.0H MHz toward Ojus, Fla.

1258-CF-P-77 Same (KJJ68), 3.5 miles NW of Ojus, Fla. Lat. 25°58'19" N., Long. 80°11'39" W., C.P. to add frequency 4030.-0V MHz toward Miami, Fla.

1276-CF-P-77 Same (KJM73), Pearl and Waukennan Streets, Monticello, Fla. Lat. 30°32'48" N., Long. 83°52'06" W., C.P. to change polarizations vertical to horizontal on frequencies 3750, 3810, 3830,3890, 3910, 3970, 4070, 4150, 4198 MHz toward Madison, Fla.

1277-CF-P-77 Same (KJM72), Brookwood Ave. and State Rd. 10, Madison, Fla. Lat. 30°28'11" N., Long. 83°25'11" W., C.P. to change frequencies 3850H to 3810H, 3930H to 3890H, and 4010H to 3970H MHz toward Jasper and to change polarizations vertical to horizontal 3710, 3790, 3870, 3930, 4010, 4090, 4110, 4190 MHz toward Monticello Fla.

1278-CF-P-77 Same (KJM71), 5.5 miles South of Jasper, Fla. Lat. 30°26'17" N., Long. 82°56'17" W., C.P. to change frequencies 3890 to 3930, 3970 to 4010, and 4050 to 4090 MHz toward Madison.

1287-CF-MP-77 Pacific Northwest Bell Telephone Company (KPZ38), 5.5 miles WNW of Wymer, Wash. Lat. 46°51'01" N., Long. 120°34'32" W., C.P. to increase output power 10855.OH, 10935H MHz toward Wymer, Wash.

1292-CF-P-77 South Central Bell Telephone Company (KJG48), 201 Court Avenue Memphis, Tenn. Lat. 35°08'41" N., Long. 90°02'57" W., C.P. to add new point of communication on frequency 11135V MHz toward Woodstock, Tenn. on azimuth 21.8°.

1196-CF-MP-77 The Western Union Telegraph Company (KSG89) 4.7 miles SE of Lebanon, Ind. Construction Permit to change frequency from 3790V MHz to 4090H MHz toward Indianapolis, Ind.

1197-CF-MP-77 Same (WBB361), Merchant's Bank Building, Indianapolis, Indiana. Construction Permit to change frequency from 3990V MHz to 3970H MHz toward Lebanon, Ind.

1210-CF-P-77 Southern Pacific Communications Company, (WAU264) 2.9 miles NE of Honey Brook, Pa. Construction Permit to add frequencies—6286.2V, 6345.5V and 6404.8V MHz, all towards Quarryville, Pa.

1211-CF-P-77 Same (WAU265), 4.7 miles West of Quarryville, Pa. Construction Permit to add frequencies—6004.5V, 5945.2V and 6063.8V MHz towards Shawsville; 6034.-2V, 5974.8V and 6093.5V MHz towards Honey Brook, both in Pennsylvania.

1212-CF-P-77 Same (WAU266), 0.8 mile NW of Route 439 and 23, Shawville, Md. Construction Permit to add frequencies—6226.9H, 6286.2H and 6345.5H MHz towards Hampstead, Md.; 6226.9V, 6286.2V and 6345.5V MHz towards Quarryville, Pa.

1213-CF-P-77 Same (WAU268), 0.8 mile West of Hampstead, Md. Construction Permit to add frequencies—5945.2H, 6004.5H and 6063.8H MHz towards Cooksville; 5945.2H, 6004.5H and 6063.8H MHz towards Shawsville, both in Maryland.

1214-CF-P-77 (WAU252), 0.3 mile SW of Cooksville, Md. Construction Permit to add frequencies—6226.9H, 6286.2H and 6345.5H MHz towards Hampstead, Md.

1016-CF-P-77 Midwestern Relay Company (WIV 62), 1.0 mile East of Duquette, Minn. (Lat. 46°22'53" N., Long. 92°32'38" W.): Construction permit to replace transmitter and increase power—5974.8V MHz toward Hinckley, Minn., on azimuth 223.1°.

1017-CF-P-77 Midwestern Relay Company (WIV 61), 3.8 miles West of Hinckley, Minn. (Lat. 46°01'28" N., Long. 93°01'21" W.): Construction permit to replace transmitter and increase power—6375.2H MHz toward Isanti, Minn., on azimuth 192.0°.

1018-CF-P-77 Midwestern Relay Company (WIV 46), 3.9 miles NE of Isanti, Minn., (Lat. 45°31'17" N., Long. 93°10'27" W.): Construction permit to replace transmitter and increase power—6034.2H MHz toward Arden Hills, Minn., on azimuth 178.3°.

1019-CF-P-77 Eastern Microwave, Inc. (WBB 207), North Beacon Mtn., Beacon, N.Y. (Lat. 41°29'18" N., Long. 73°56'56" W.): Construction permit to add 6167.6V MHz toward New Paltz, N.Y., via power split, on azimuth 334.6°.

1020-CF-P-77 Eastern Microwave, Inc. (WQP 99), Stokes, Whaley Rd., atop Quaker Hill, Western, N.Y. (Lat. 43°20'36" N., Long. 75°25'36" W.): Construction permit to add 6182.4H and 6301.0H MHz toward Chittenango, N.Y., on azimuth 233.1°.

1058-CF-P-77 Western Telecommunications, Inc. (New), 1.4 miles SE of Morrison, Colo. (Lat. 39°38'05" N., Long. 105°10'54" W.): Construction permit for new station—11425H and 11665H MHz toward Denver TOC and Lakewood CATV and 11665 MHz toward Colorow Hill, all in Colorado, on azimuths 55.7°, 41.6° and 329.9°, respectively. (NOTE.—All proposed paths of communication are fed through passive repeaters located at Mt. Glennon, Colo. (Lat. 39°38'25" N., Long. 105°10'51" W.) via power split, on azimuth 6.5°.)

1059-CF-P-77 Mountain Microwave (KBI 23), 12 miles SW of Eads, Colo. (Lat. 38° 24'15" N., Long. 102°58'05" W.): Construction permit to change antenna system on existing path of communication.

1296-CF-P-77 General Telephone Company of Florida (KPT56), Macdill AFB Sage Site Z-129, Tampa, Fla. Lat. 27°50'04" N., Long. 82°28'16" W., C.P. to change frequencies 6226.9V, 6345.5V MHz toward Causeway to 6375.2V, 6256.2V MHz toward Wimauma on azimuth 134.8°, replace transmitter and

1297-CF-P-77 Same (WIU84), 2.4 miles WNW from Wimauma, Fla. Lat. 27°42'57" N., Long. 82°20'13" W., C.P. to add a new point of communication on frequencies 6123.1V, 6004.5V MHz toward Macdill on azimuth 314.9° and add frequency 6034.2V MHz toward Lithia, Fla.

1298-CF-P-77 Same (WAH395), SR 640 and Browning Road, Lithia, Fla. Lat. 27°50'49" N., Long. 82°10'33" W., C.P. to add frequencies 6286.2V MHz toward Wimauma and 6375.2H MHz toward Highland, Fla.

1299-CF-P-77 Same (KIB48), Peterson Rd. and Highland City, Fla., Lat. 27°57'40" N., Long. 81°55'21" W., C.P. to change frequencies 6093.5V, 5974.8V to 6123.1H, 6034.2V MHz toward Eva, Fla., and add frequency 6123.1H MHz toward Lithia, Fla.

1300-CF-P-77 Same (KGP53), Hwy. 33, 2.3 miles S of Eva, Fla. Lat. 28°17'37" N., Long. 81°49'57" W., C.P. to change frequencies 6345.5V, 6226.9V to 6375.2H, 6289.2V MHz toward Highland, Fla., on azimuth 193.5°.

MAJOR AMENDMENT

938-CF-P-77 American Television & Communications Corporation (WBA 759), Ellis Road, NW of Glover Road, Durham, N.C. (Lat. 35°57'43" N., Long. 78°52'17" N.): Amendment to change polarization—6108.3H and 5989.7H MHz toward Henderson, N.C., on azimuth 42.6°.

CORRECTION

499-CF-P-77 South Central Bell Telephone Company (KVH96), 0.4 mile SW of Louisa, Ky. Correct to read increase transmit antenna structure height and other particulars remain as reported on Public Notice No. 835 dated December 6, 1976.

843-CF-P-77 Southern Montana Telephone Company (New), Lloyd Street, Jackson, Mont. Lat. 45°22'05" N., Long. 113°24'35" W., correct to read C.P. for a new station frequencies 11405, 11645H MHz toward passive reflector on azimuth 106.22 and from the passive reflector to Bannack on azimuth 116.97°.

844-CF-P-77 Southern Montana Telephone Company (New), 14.5 miles NW of Jackson, Mont. Correct station location; all other particulars remain as reported on Public Notice No. 839 dated 1-3-77.

689-CF-P-77 General Telephone Company of California (KYO59), 2.2 miles NNW of Whitewater, Calif. Lat. 33°57'17" N., Long. 116°39'15" W. Correct Longitude and C.P. to read to add frequency 11525V MHz toward Palm Springs, Calif. and add a new point of communication on frequency 11305 MHz toward Mt. Davis, Calif.; all other particulars remain as reported on Public Notice No. 838 dated 12-27-76.

[FR Doc.77-3625 Filed 2-3-77;8:45 am]

[Docket No. 20271]

NORTH PACIFIC MARINE RADIO COUNCIL

General World Administrative Radio Conference; Extension of Comments Period

Order

In the matter of an inquiry relative to preparation for a General World Administrative Radio Conference of the International Telecommunications Union to consider revision of the international radio regulations.

Adopted: January 27, 1977.

Released: January 28, 1977.

1. On January 19, 1977 a petition was filed on behalf of the North Pacific Marine Radio Council (NPMRC) requesting a three week extension of time for filing comments and reply comments directed to the Third Notice of Inquiry, in this proceeding.

2. On January 19, 1977 the Commission considered an earlier filed request for extension of time in this proceeding and noted that because of the time constraint imposed on the preparatory effort for the 1979 General World Administrative Conference no time extensions beyond February 7, 1977 and February 25, 1977 for the filing of Comments and Reply Comments respectively would be allowed.

3. Accordingly, the North Pacific Marine Radio Council petition is GRANTED to the extent that additional time for filing of Comments and Reply Comments is extended to February 7 and February 25, 1977 Respectively; and is DENIED in all other respects.

RA[illegible]D E. SPENCE,
Chief Engineer.

[FR Doc.77-3626 Filed 2-3-77;8:45 am]

FEDERAL MARITIME COMMISSION

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS AND PUBLIC GRAIN ELEVATOR OF NEW ORLEANS, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 73, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before February 22, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Joe Hamner, Jr., Attorney, Board of Commissioners of the Port of New Orleans, P.O. Box 60046, New Orleans, Louisiana 70160.

Agreement No. T-590-8, between the Board of Commissioners of the Port of New Orleans (Port) and the Public Grain Elevator of New Orleans, Inc., (Elevator), modifies the basic agreement which provides for the lease of grain elevator facilities in the City of New Orleans. The purpose of this modification is: (1) To extend the term of the agreement by adding a fourth renewal period; (2) to delete the right of Port to cancel Elevator's option to renew; (3) for Elevator to purchase and install, with Port's inspection and approval, certain dust control improvements; and (4) for Port to reimburse Elevator for such improvements by payment of a percentage of Port's cash gain derived from elevator operations, after November 1, 1975 and during the term of the lease, but in no event to exceed $2,000,000. In the event Elevator's operations may bring about fines, penalties or damages in connection with dust emissions, occupational safety and health, or other areas of government regulation, Elevator may suspend operations, however, Elevator will be liable for the payment of rent. Elevator may, if believing the cost incurred to assure compliance with such laws are no longer economically feasible, terminate the lease.

By Order of the Federal Maritime Commission.

Dated: January 31, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-3694 Filed 2-3-77;8:45 am]

CHICAGO REGIONAL PORT DISTRICT

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before February 24, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the mat-

ters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Maxim M. Cohen, General Manager, Chicago Regional Port District, Butler Drive, Lake Calumet Harbor, Chicago, Illinois 60603.

Agreement No. T-3400, between the Chicago Regional Port District (Port) and North Pier Terminal Co., (NPTC), provides for the Port's two-year lease to NPTC of certain premises, including Transit Shed No. 1, at the west end of the Lower Anchorage Basin on Lake Calumet, Chicago, Illinois, to be used for the purpose of operating a ship, barge, railroad and truck terminal, and warehouse, and for the handling of goods and merchandise in connection therewith.

As compensation, NPTC shall pay Port for the use and occupancy of the building and outside paved areas, rental of $129,600.00 per annum. In addition, NPTC shall pay 50 percent of the dockage and wharfage collected for tonnage handled at the wharf up to a maximum of $25,920.00. All subsequent dockage and wharfage charges are to be retained by NPTC. All charges are to be those assessed under the Port's tariff.

By Order of the Federal Maritime Commission.

Dated: February 1, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-3695 Filed 2-3-77;8:45 am]

FEDERAL POWER COMMISSION

GAS POLICY ADVISORY COUNCIL, STEERING COMMITTEE OF THE EXECUTIVE ADVISORY COMMITTEE

Meeting Agenda

Hearing Room A, Federal Power Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426.

February 24, 1977, 10:00 a.m.

Presiding: Mr. Francis J. Connor, FPC Coordinating Representative and Secretary, Gas Policy Advisory Council.

1. Call to order and introduction of those present, Mr. Connor.

2. Remarks by Richard L. Dunham, Chairman, Federal Power Commission.

3. Remarks by John H. Holloman, III, Vice Chairman and Don S. Smith and James G. Watt, Commissioners, Federal Power Commission.

4. Remarks by Dr. S. William Yost, Chief, Bureau of Natural Gas, Federal Power Commission.

5. Remarks by Dr. John J. Schanz, Chairman, Executive Advisory Committee Steering Committee, Gas Policy Advisory Council.

6. *Working Session.*—A. Discussion of Council Organization Structure.

B. Discussion of the major issue topics for referral and assignment to the appropriate Continuing Advisory Subgroup:

1. Gas Shortage Management.
2. Gas Industry Future.
3. Supply Increase Policies.
4. Institutional and Regulatory Improvements.

C. Discussion of Council Procedural and Administrative Considerations.

D. Discussion of Agenda items for, and date of, the next Steering Committee meeting.

7. Other Business.

8. Adjournment, Mr. Connor.

All Gas Policy Advisory Council meetings are open to the public. Any interested person may attend, appear before or file statements with the committees—which statements, if in written form, may be filed before of after the meetings, or if oral, at the time and the manner permitted by the committees.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3775 Filed 2-3-77;8:45 am]

[Docket No. CP75-340]

NORTHWEST PIPELINE CORP.

Petition to Amend

FEBRUARY 2, 1977.

Take notice that on January 13, 1977, Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed pursuant to Section 3 of the Natural Gas Act in Docket No. CP75-340 a petition to amend the Commission's order issued December 31, 1975, in Docket No. CP75-340 so as to authorize the continued importation of natural gas from British Columbia, Canada, through October 31, 1977, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by Commission order issued December 31, 1975, it was authorized to continue the importation of an additional 125,000 Mcf of gas on peak days and up to 30,000 Mcf of gas on an average day basis at the Kingsgate, British Columbia, import point through October 31, 1976. It is stated that the additional volumes of gas are made available to Westcoast Transmission Company Limited (Westcoast), for resale to Petitioner, by Alberta and Southern Gas Company Limited (A&S) on a best-efforts limited term basis. It is further stated that Pacific Gas Transmission Company (PGT) receives the volumes at Kingsgate and transports such volumes for delivery to Petitioner at two existing points of interconnection between the facilities of PGT and Northwest in the vicinities of Stanfield, Oregon, and Spokane, Washington.

Petitioner now requests authorization to continue the importation of up to 30,000 Mcf of gas on an average day and up to 125,000 Mcf of gas on a peak day through October 31, 1977, at the Kingsgate point pursuant to an agreement between Petitioner and Westcoast dated August 16, 1976, and an agreement between Westcoast and A&S also dated August 16, 1976. It is stated that the volumes made available by A&S to Westcoast would be on a best-efforts basis and that pursuant to an agreement dated January 6, 1977 between PGT and Petitioner PGT has agreed to transport and deliver to Petitioner at Stanfield, Oregon, and Spokane, Washington, such volumes of gas that it is able to accept in excess of its other sales and transportation obligations. It is further stated that Petitioner would pay Westcoast $1.94 per Mcf, as established by the National Energy Board of Canada and that Petitioner would pay PGT a transportation charge under PGT's Rate Schedule T-1.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 11, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3776 Filed 2-3-77;8:45 am]

[Docket No. ER77-162]

DUKE POWER CO.

Supplement to Electric Power Contract

JANUARY 28, 1977.

Take notice that Duke Power Company tendered for filing on January 21, 1977, a supplement to the Company's Electric Power Contract with the City of Newberry, South Carolina, which is to become effective on February 18, 1977. This contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 218.

The Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for a new delivery point. The supplement also includes an estimate of sales and revenue for the 12 months immediately succeeding the effective date.

The Company states that a copy of this filing was mailed to the Mayor of the City of Newberry, South Carolina.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the

Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 16, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3746 Filed 2-3-77;8:45 am]

[Docket No. ER77-166]

WISCONSIN POWER AND LIGHT CO.

Filing Wholesale Power Agreement

JANUARY 28, 1977.

Take notice that on January 24, 1977, Wisconsin Power and Light Company (WPL) tendered for filing a Wholesale Power Contract dated January 4, 1977, between the City of Stoughton, Wisconsin and WPL. WPL states that this contract will supersede an existing contract for wholesale electric service dated January 12, 1966 and designated WPL Rate Schedule FPC No. 59.

WPL requests a proposed effective date of February 13, 1977 and waiver of the notice requirements of § 35.11 of the Commission's regulations. WPL states that a copy of the Wholesale Power Contract and the filing have been sent to the City of Stoughton.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 16, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3747 Filed 2-3-77;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST NATIONAL DAVID CITY CORP.

Formation of Bank Holding Company; Correction

In FR document 77-2637 appearing at page 5133 of the issue for Thursday, January 27, 1977, the name of the bank holding company being formed should read First National David City Corporation.

Board of Governors of the Federal Reserve System, January 31, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-3498 Filed 2-3-77;8:45 am]

GLEN-AN CORP.

Formation of Bank Holding Company

Glen-An Corporation, Kanaranzi, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 95.6 per cent of the voting shares of Farmers State Bank, Kanaranzi, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no serve System, January 31, 1977.

Board of Governors of the Federal Reserve System, January 31, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-3499 Filed 2-3-77;8:45 am]

FEDERAL TRADE COMMISSION

PRIVACY ACT OF 1974

Systems of Records and Routine Uses

On July 21, 1976, the Commission published in the FEDERAL REGISTER proposed additional routine uses for certain of its existing systems of records and notices for seven systems of records that had been inadvertently omitted from previous notices (41 FR 30069, 30087-92). On September 28, 1976, the Commission published notice of a proposed new system denominated Equal Employment Opportunity Statistical Reporting System (41 FR 42937).

The Commission received two comments with substantially the same suggestion, and adopts the suggestion by adding the phrase "Available to the public for inspection and copying" to the routine use provision of system FTC-49. No other comments having been received, the Commission adopts the systems and routine uses as published, except for the modified system notice, which is adopted as set forth below.

By direction of the Commission dated January 28, 1977.

JOHN F. DUGAN,
Acting Secretary.

FTC-49

System name

Freedom of Information Act Requests and Appeal from Other Than Governmental Agencies and the Commission's Responses Thereto—FTC.

System location

Division of Legal and Public Records, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Categories of individuals covered by the system

Persons filing requests for access to information under the Freedom of Information Act.

Categories of records in the system

Name, address, sometimes purpose of request, and intended use of information, and agreement to pay fees, if any.

Authority for maintenance of the system

Federal Trade Commission Act; Freedom of Information Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

Used by staff of the Secretary's Office, General Counsel's Office, enforcement Bureaus with respect to active or pending investigations or proceedings, and of the Commissioners, to make recommendations and determinations in response to Freedom of Information Act requests and appeals. Referral to the Office of Management and Budget and to the Congress for annual reports required by the Freedom of Information Act. Referral to federal enforcement authorities to assist with administrative processing and litigation. Available to the public for inspection and copying.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system

Storage

Stored in binders in Public Reference Room. Available to the public.

Retrievability

Generally indexed by name of requesting party and by subject matter of request.

Safeguards

Maintained in lockable office.

Retention and disposal

Maintained from 3-8-73.

System manager(s) and address

Secretary, Federal Trade Commission (address same as System Location).

Notification procedure

By mailing or delivering a written request bearing the individual's name, return address, and signature, addressed as follows: Privacy Act Request, Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Record access procedures

Same as above.

Contesting record procedures

Same as above.

Record source categories

Individual on whom the record is maintained.

[FR Doc.77-3606 Filed 2-3-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

ADVISORY COMMITTEES

Notice of Renewal

This notice is published in accordance with the provisions of Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) and advises of the renewal of the following GSA advisory committees for a two-year period commencing January 6, 1977, without change in basic purpose:

National Archives Advisory Council
National Health Resources Advisory Committee
Program Advisory Committee
Regional Archives Advisory Councils
Regional Archives Advisory Councils (Regions 2, 3, 4, 7, and 9)
Regional Public Advisory Panels on Architectural and Engineering Services (Regions 1 through 10)

The Administrator of General Services has determined that renewal of these advisory committees, except for the National Health Resources Advisory Committee, is in the public interest in connection with the performance of duties imposed on the General Services Administration by law. The National Health Resources Advisory Committee was renewed by Executive Order 11948.

Dated: January 25, 1977.

WALLACE H. ROBINSON, Jr.,
Acting Deputy Admministrator of General Services.

[FR Doc.77-3504 Filed 2-3-77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

JANUARY 27, 1977.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 3, February 28, and March 1, 1977, from 9:00 a.m. to 4:00 p.m., Room 2640, GSA Regional Office Building, Seventh and D Streets, S.W., Washington, DC. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Adaptive-Use Renovation of the Old Post Office Building, Washington, DC, (GS-03B-79007). Frank and open discussion of the professional qualifications of the firms being considered is essential to insure selection of the best qualified firms. Accordingly, pursuant to a determination that it will be concerned with a matter listed in 5 U.S.C. 552(b)(5), the meeting will not be open to the public.

JOHN F. GALUARDI,
Regional Administrator.

[FR Doc.77-3733 Filed 2-3-77;8:45 am]

Office of Education

RIGHT TO READ STATE LEADERSHIP AND TRAINING PROGRAM

Closing Date for Receipt of New and Noncompeting Continuation Applications for Fiscal Year 1977

Notice is hereby given that under the authority contained in Section 724 of the National Reading Improvement Program, Title VII of the Education Amendments of 1974, Pub. L. 93-380, as amended by Pub. L. 94-194 (20 U.S.C. 1964) applications are being accepted for non-competing continuation grants under the Right to Read State Leadership and Training Program. To be assured of consideration for refunding, the original and two copies of the non-competing continuation application should be received by the U.S. Office of Education Application Control Center on or before March 15, 1977.

Applications are also being accepted for competing new grants under the Right to Read State Leadership and Training Program.

The original and two copies of the application must be received by the U.S. Office of Education Control Center on or before March 15, 1977. Applications for competing new grants which are not received on time will not be accepted.

A. *Applications sent by mail.* Applications sent by mail must be addressed as follows: U.S. Office of Education, Grant and Procurement Management Division, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.533B. Applications sent by mail will be considered to be received on time by the Application Control Center if:

(1) The applications were sent by registered or certified mail not later than March 10, 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 applications are received on or before the closing date by either the Department of Health, Education, and Welfare, or 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 receipt 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.* Applications 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, SW., 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. Competing new applications will not be accepted after 4:00 p.m. on the closing date.

C. *Completing new applications.* To facilitate review of applications, applicants are encouraged to present information in the sequence of topics that are contained in § 162.61 (Nature of projects; funding requirements) and § 162.62 (Evaluation Criteria) of the program regulation. (45 CFR 162.61, 162.62). The attention of applicants is particularly invited to § 162.61(b) of the regulations which requires each applicant to set forth a plan which provides for the carrying out and integration of all activities in the State Leadership and Training Program.

Applicants who wish to prepare a multi-year application must include, as indicated § 162.63(b), an explanation of the need for multi-year support (a three year project duration may be requested (continuations of multi-year projects will be contingent upon the continued authorization of the program and the availability of funds)), an overview of the objectives and activities proposed, and budget estimates to attain these objectives in any proposed subsequent year.

D. *Non-competing continuation applications.* As provided under § 162.63(e) of the program regulation, a continuation application will be reviewed, in part, on the basis of the project's effectiveness to date, or any constructive changes proposed as a result of a grantee's ongoing evaluation. Applicants are encouraged to review their initial application and the requirements and criteria in §§ 162.61 and 162.62 in developing information on how they will conduct their projects in the second and third years.

E. *Authority.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a). Regulations governing the State Leadership and Training Program were published in the FEDERAL REGISTER on May 26, 1976 (General Provisions, 45 CFR Part 162, Subpart A, and State Leadership and Training Program, 45 CFR Part 162, Subpart F) and will govern the operation of this program.

F. *Application information and forms.* Applications must be prepared and submitted in accordance with instructions and forms which may be obtained from the Right to Read Office, Room 2130, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Interested applicants may call 202-245-7950 for these forms and/or information.

The Office of Education wishes to stress that State educational agency officials who have authority and responsibility to plan and implement this program realize the extent of the agency commitment that is needed and the need for high expectations for outcomes in the agency to carry out successfully State leadership and training projects. The Office of Education strongly encourages applicants to take particular care in clearly and sharply defining the objectives of the project in accordance with the specific require-

ments of § 162.61(c)(1) of the program regulation. The attention of applicants for new grants is particularly directed to the fact that the application must meet each requirement in § 162.61 and, in addition, if it is to have the opportunity to earn points for each criterion, should provide information responding to each criterion in § 162.62 of the program regulation.

It is anticipated that $6,000,000 will be available for funding of the State Leadership and Training Program. The majority of grants are expected to range from $75,000 to $115,000. Only a small number of grants are anticipated outside of this range. However, nothing in this paragraph shall be construed to limit the size of any particular grant award. The Commissioner intends to fund as many States as possible (assuming each State meets the funding requirements in § 162.61 and the application is judged of sufficient quality under the certeria in § 162.62). Grant awards will be made upon approval by the Commissioner for a grant period commencing no earlier than July 1, 1977 and terminating no later than June 30, 1978.

(20 U.S.C. 1964)

(Catalog of Federal Domestic Assistance Number 13.533, Right to Read—Elimination of Illiteracy)

Dated: January 31, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.77-3666 Filed 2-3-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Doc. No. 76N-0112; DESI 3590]

CERTAIN PARENTERAL PROTEIN HYDROLYSATE SOLUTIONS

Withdrawal of Approval of Pertinent Parts of New Drug Applications

In a notice (DESI 3590, Docket No. 76N-0112) published in the FEDERAL REGISTER of September 21, 1976 (41 FR 41133), the Director of the Bureau of Drugs offered the opportunity for hearing on a proposal to issue an order withdrawing approval of pertinent parts of the new drug applications for the drug products described below. The drug products are sterile protein hydrolysate solutions administered through the intravenous route as a dietary supplement of protein. The basis of the proposed action was the lack of substantial evidence that the products are effective for their labeled indications. Since a hearing was not requested for the following products, approval of those parts of the new drug applications is now being withdrawn.

1. Those parts of NDA 3-590 pertaining to Amigen Injection containing 10 percent protein hydrolysate; 5 percent protein hydrolysate and 5 percent dextrose; 2½ percent protein hydrolysate and 10 percent dextrose; 3⅓ percent protein hydrolysate and 3⅓ dextrose in Lactated Ringer's Solution; 5 percent protein hydrolysate and 10 percent dextrose; 5 percent protein hydrolysate, 5 percent dextrose, and 5 percent alcohol; Mead Johnson Laboratories, Division of Mead Johnson and Co., 2404 Pennsylvania St., Evansville, IN 47721.

2. Those parts of NDA 5-932 pertaining to Aminosol Injection containing 5 percent protein hydrolysate (modified) and 5 percent dextrose; and 5 percent protein hydrolysate (modified), 5 percent dextrose, and 5 percent alcohol; Abbott Laboratories, Inc., 14th and Sheridan Rd., N. Chicago, IL 60064.

3. Those parts of NDA 6-170 pertaining to Hyprotigen Injection containing 6 percent hydrolysate (modified); and 5 percent protein hydrolysate (modified) and 5 percent dextrose; McGaw Laboratories, 1015 Grandview Ave., Glendale, CA 91201.

4. That part of NDA 6-726 pertaining to C.P.H. Solution containing 5 protein hydrolysate (modified) and 5 percent dextrose; Cutter Laboratories, Inc., 4th and Parker Sts., Berkeley, CA 94710.

5. Those parts of NDA 5-419 pertaining to Travamin Injection containing 7½ percent protein hydrolysate; 5 percent protein hydrolysate and 10 percent dextrose; and 7½ percent protein hydrolysate and 10 percent dextrose; Travenol Laboratories, Inc., Morton Grove, IL 60053.

All drug products that are identical, related, or similar to a drug product named above, not the subject of an approved new drug application, are covered by the new drug applications reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20857.

In response to the September 21, 1976 notice, a request for a hearing was submitted by Travenol Laboratories with respect to the following drug products:

1. That part of NDA 5-419 pertaining to Travamin Injection containing 5 percent protein hydrolysate and 5 percent dextrose.

2. Travamin Injection containing 10 percent protein hydrolysate (no NDA).

3. Travamin Injection containing 5 percent protein hydrolysate, 12.5 percent fructose and 2.4 percent alcohol (no NDA).

No other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.31), (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), finds that on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

Therefore, pursuant to the foregoing finding, approval of those parts of new drug applications 3-590, 5-932, 6-170, 6-726, and 5-419 providing for the drug products named above (except for the products named above that are the subject of a request for hearing), and all amendments and supplements applying thereto, is withdrawn effective February 14, 1977.

Shipment in interstate commerce of the above listed products or of any identical, related, or similar products, not the subject of an approved new drug application, will then be unlawful.

Dated: January 24, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-3175 Filed 2-3-77;8:45 am]

[Doc. N. 76N-0390; DESI 9495]

CYCLIZINE LACTATE FOR INTRAMUSCULAR USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Notice of Opportunity for Hearing

The Food and Drug Administration is reclassifying the probably effective indication for cyclizine lactate injection, offering an opportunity for hearing on the indications lacking substantial evidence of effectiveness, and announcing the conditions under which the drug may be marketed for the indication for which it is now regarded as effective. Persons who wish to request a hearing may do so on or before March 7, 1977.

In a notice (DESI 9495) published in the FEDERAL REGISTER of July 27, 1972 (37 FR 15039), the Food and Drug Administration announced its conclusion that cyclizine lactate is (1) probably effective for the control of postoperative nausea and vomiting; and (2) lacking substantial evidence of effectiveness for general use in the relief of nausea and vomiting when the oral route cannot be used, and for nausea and vomiting of pregnancy. No person has submitted any data in support of the probably effective indication and that indication is now reclassified to lacking substantial evidence of effectiveness.

Upon reevaluation of the drug it is concluded that the drug is effective for the treatment of nausea and vomiting of motion sickness when the oral route cannot be used.

Accordingly, the notice of July 27, 1972, is amended to read as follows with respect to:

NDA 9-495; Marezine Injection containing cyclizine lactate; Burroughs Wellcome & Co., Inc. 3030 Cornwallis Rd., Research Triangle Park, NC 27709.

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(s) of the new drug application(s) 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 product is effective for the indication listed in the labeling conditions below. The drug now lacks substantial evidence of effectiveness for all its other labeled indications.

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 under conditions described herein.

1. *Form of drug.* The drug is in sterile aqueous solution form suitable for intramuscular administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is 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. The Indication is as follows:

For the treatment of nausea and vomiting of motion sickness when the oral route cannot be used.

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, on or before April 5, 1977, the holder of the application submits, if he has not previously done so, (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 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. 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 accordwith 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 opportunity for a hearing, he shall file (1) on or before March 7, 1977, a written notice of appearance and request for hearing, and (2) on or before April 5, 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 9495, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

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-101), 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: January 19, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-3173 Filed 2-3-77;8:45 am]

[Doc. No. 76N-0391; DESI 9495]

CYCLIZINE HYDROCHLORIDE FOR RECTAL USE

Drugs for Human Use; Efficacy Study Implementation; Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

In a notice (DESI 9495) published in the FEDERAL REGISTER of July 27, 1972 (37 FR 15039), the Food and Drug Administration announced its conclusion that the drug product described below is (1) probably effective for the control of postoperative nausea and vomiting; and (2) lacking substantial evidence of effectiveness for general use for relief of nausea and vomiting when the oral route cannot be used, and for nausea and vomiting of pregnancy. No data were submitted, and the drug product is now regarded as lacking substantial evidence of effectiveness. This notice announces that conclusion and proposes to withdraw approval of the new drug application. Persons wishing to request a hearing may do so on or before March 7, 1977.

NDA 9-781; Marezine Suppositories and Pediatric Suppositories containing cyclizine hydrochloride; Burroughs Wellcome & Co., Inc., 3030 Cornwallis Rd., Research Triangle Park, NC 27709.

Marezine Injection was included in the July 27, 1972 notice but is not affected by this notice.

On the basis of all of 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.

Therefore, 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) (or if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto 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 the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product which 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 of opportunity for hearing 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 20857.

In addition to the ground(s) 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 subject to this Notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application(s) 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 of all identical, related, or similar drug products.

If an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before March 7, 1977, a written notice of appearance and request for hearing, and (2) on or before April 5, 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 notice. The pocedures 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 any such drug product. Any such drug product 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 Commisisoner 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 shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

All submissions pursuant to this notice, 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 during working hours, Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under 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: January 19, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-3174 Filed 2-3-77;8:45 am]

Health Resources Administration

HEALTH SYSTEMS AGENCY APPLICATION INFORMATION

Notice of Availability

Notice is hereby given that application materials for FY 1977 are available in DHEW regional offices for entities interested in initial conditional designation, renewal of conditional designation, or full designation as a health systems agency (HSA) under the National Health Planning and Resources Development Act of 1974 (Pub. L. 93-641, January 4, 1975).

The National Health Planning and Resources Development Act of 1974 added a new Title XV, "National Health Planning and Development," to the public Health Service Act. Among other things the new Title XV authorizes the Secretary to enter into agreements with eligible entities for the designation of such entities as health systems agencies for health service areas established pursuant to section 1511 of the Public Health Service Act as geographic regions appropriate for the effective planning and development of physical and mental health services and to provide grant assistance to such agencies. Each such health systems agency shall have as its primary responsibility the provision of effective health planning for its health service area and the promotion of the development within the area of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies and implement the health plans of the agency.

On March 26, 1976, the Department published in the FEDERAL REGISTER regulations dealing with the designation and funding of health systems agencies. Those entities interested in becoming HSA's, in renewing their conditional designation agreements, or in receiving full designation may submit applications in accordance with the requirements set forth in those regulations.

The Department will announce special review cycles for those health service areas where no HSA's were designated during FY 1976. In health service areas which are currently served by designated HSA's, applications for renewal of conditional designation and for full designation will be processed according to the following schedule: Each applicant will (1) announce and conduct a public meeting for review of the proposed application; (2) submit a Notification of Intent to apply for Federal support to State and areawide A-95 Clearinghouses, to appropriate Governor(s), Statewide Health Coordinating Councils, State Health Planning and Development Agency(s), and to the DHEW regional office (at least 30 days prior to submission of the application, and 90 days prior to award date); (3) submit the application to all parties listed above (at least 60 days prior to the award date). Comments on the application by the Governor(s), SHCC(s), SHPDA(s) and A-95 Clearinghouse(s) are to be forwarded to the DHEW regional office (at least 30 days prior to award date). For HSA's receiving renewal of conditional designation or full designation, the award date will be the anniversary date of its current designation.

Any members of the public residing in areas served by a health systems agency should contact their respective agency concerning that agency's timetable for submitting its renewal of conditional designation or full designation application.

Application materials and further information may be obtained from the Regional Health Administrator in each of the Department's ten regional offices. See Appendix A.

Dated: January 26, 1977.

HAROLD MARGULIES,
Deputy Administrator,
Health Resources Administration.

APPENDIX A

DHEW Regional Office I: John F. Kennedy Federal Building, Boston Massachusetts 02203.
DHEW Regional Office II: 26 Federal Plaza, New York, New York 10007.
DHEW Regional Office III: Post Office, Box 13716, Philadelphia, Pennsylvania 19108.
DHEW Regional Office IV: 50 Seventh Street, N.E., Atlanta, Georgia 30323.
DHEW Regional Office V: 300 South Wacker Drive, Chicago, Illinois 60606.
DHEW Regional Office VI: 1200 Main Tower, Dallas, Texas 75202.
DHEW Regional Office VII: 601 East 12th Street, Kansas City, Missouri 64106.
DHEW Regional Office VIII: 9017 Federal Office Building, Denver, Colorado 80202.
DHEW Regional Office IX: 50 Fulton Street, San Francisco, California 94102.
DHEW Regional Office X: 1321 Second Avenue, Arcade Plaza, Seattle, Washington 98101.

[FR Doc.77-3505 Filed 2-3-77;8:45 am]

Office of the Secretary

STUDENT FINANCIAL ASSISTANCE STUDY GROUP

Hearing and Meeting

The Student Financial Assistance Study Group was established by public notice on August 27, 1976, to advise the Secretary of Health Education, and Welfare on ways to implement more effectively and efficiently the Student Financial Assistance Programs administered by the Department. These programs include the Basic Educational Opportunity Grants Program (BEOG), the Guaranteed Student Loan Program (GSL), the Supplemental Educational Opportunity Grants Program (SEOG), the National Direct Student Loan Program (NDSL), the College Work-Study Program (CWS), and the State Student Incentive Grant Program (SSIG).

Notice is hereby given pursuant to Pub. L. 92-463 that the Student Financial Assistance Study Group will hold a hearing to receive suggestions on all topics related to its study and in particular, issues related to program management and integrity. The public hearing will be held on Thursday, March 3, 1977, in a meeting room of the Continental Plaza Hotel, 909 North Michigan, Chicago, Illinois from 9.30 a.m. to 3:00 p.m. This hearing is part of the Student Financial Assistance Study Group's efforts to review management and administrative issues related to the student assistance programs.

OUTLINE OF THE STUDY

The Student Financial Assistance Study Group at its November meeting outlined, in broad terms, the following major areas to be included in the Study.

1. INTRODUCTION—BACKGROUND

There will be an introduction which, from a historical base, will analyze why the current management and administrative problems exist in the federal student aid programs and why the Student Financial Assistance Study Group was established.

2. ELIGIBILITY

This section of the study will address the process for determining eligibility to receive federal funds and to participate in the student aid programs. The study will critically review, the process for determining, maintaining, and terminating eligibility for states, institutions, students, and lenders.

3. DELIVERY SYSTEM

The delivery system for providing financial assistance to students through the various mechanisms currently in force will also receive the attention of the Study Group. This will include the application process, panel review process, allotment of funds, packaging of aid and student budget process. The Group intends to give consideration to the timing of payments to students and to institutions; the roles of the federal central office and regional offices in the administration of the programs; the roles of the states, the educational institutions, the private sector service organizations, and the lending institutions in the administration of the programs.

4. PROGRAM MANAGEMENT AND INTEGRITY

The organization structure, policies, and procedures used to manage the programs to insure program integrity, coordination, and control will be the focus of this section of the Study. The Study will look at management systems in gen-

eral, including communications, training, technical assistance, and data acquisition; the incentives and disincentives for program integrity; the appeal processes; the efforts to prevent and eliminate fraud and abuse; and the procedures for evaluating performance of institutions, agencies, and individuals.

At the January hearing, testimony was heard principally relating to issues of eligibility, and, in February, the testimony focused on delivery systems. In March, the Study Group hopes to receive suggestions and comments concerning issues related to the management of the various programs in order to insure program integrity. A brief statement of some of the issues identified in this area to date follows.

PROGRAM MANAGEMENT AND INTEGRITY

In reviewing the organization and structure of the federal student aid programs, one must understand that the purpose of these programs extends beyond a simple "pay-out" of money to students since these programs are also involved with the protection of students' rights, with the safeguarding of public monies, and with the encouraging of non-federal entities to make funds available to students in the form of loans, jobs, etc. Moreover, these programs were built on a philosophy which emphasized making funds available to all who seek them, regardless of abilities or probability of success and which relatedly accepts some degree of abuse of federal funds as an unavoidable condition.

The Student Financial Assistance Study Group has suggested the following sub-headings as a structure for its review:

A. ORGANIZATIONAL STRUCTURE

1. In what ways should the separate student aid programs be integrated? Are there common aspects of the operation of these programs that could be managed in a more coordinated way?

2. What staff resources are required and what staff qualifications are necessary to adequately perform assigned responsibilities?

3. Where within the national organization of the Office of Education would the student aid program staff functions best and most effectively be carried out? Which functions or activities would best be performed by the regional offices and which would best be performed at the central office?

4. In what ways can/should the state educational agencies be involved in the operation of these programs?

B. ADMINISTRATION

1. How can the process for developing program regulations, policies, and procedures be facilitated?

2. What methods can be employed to assume consistent and uniform operation of the programs and provide guidance for good management practices? Is the development of manuals and handbooks a viable means to accomplish this objective?

3. What role can training and providing technical assistance play in improving the management and administration of the programs?

C. MANAGEMENT INFORMATION SYSTEMS

1. How adequate is the existing management information system? Is the data collected accurate, timely, relevant, and accessible?

2. How and by whom is existing management information used?

D. COMPUTER UTILIZATION

1. What is the extent of present computer usage? Is the use of computers by the programs effective?

2. Are the present systems conceptually sound and are they sufficiently controlled to prevent computer fraud?

E. PROGRAM INTEGRITY AND CONTROL

1. What steps need to be taken to assure that the student aid programs conform to the intent of Congress? What additional safeguards are required to prevent and eliminate fraud and misuse of public monies?

2. Of the following list of administrative activities, what should be the relative importance given to, or reliance on, each?

(a) Establishment of performance standards for federal staff, lenders, participating schools, and students.

(b) Development of timely, intelligible regulations.

(c) Oversight and monitoring on-site visits to institutions.

(d) Periodic performance evaluations of federal staff, and

(e) Financial and program audits and resolution of audit findings.

3. How should the enforcement and penalty provisions of the law be administered to provide greater protection for the public interest? Who should have responsibility for such activities?

4. How should the new authority to limit, suspend, or terminate participation in federal student aid programs be administered? What portions of this authority should be administered by the Regional Offices? At what level within the Office of Education should this authority be administered?

Dr. John A. Perkins, Chairman of the Student Financial Assistance Study Group, will preside at the hearing. Persons wishing to testify should submit their requests in writing to: Mrs. Mary Jane Calais, Staff Director, Student Financial Assistance Study Group, Room 325H, South Portal Building, 200 Independence Avenue, SW., Washington, D.C. 20201, telephone (202) 245-9855. Requests to testify should reach Mrs. Calais not later than February 22, 1977. Persons wishing to present written statements for the record are encouraged to do so. Such written statements should be received by the Student Financial Assistance Study Group not later than February 22, 1977.

The hearing will be open for public observation.

Pursuant to Public Law 92-463, notice is also hereby given of a meeting of the Student Financial Assistance Study Group to be held on Friday and Saturday, March 4 and 5, 1977 from 9:00 a.m. until 4:00 p.m. each day, in a meeting room of the Continental Plaza Hotel, located at 909 North Michigan Avenue, Chicago, Illinois.

The meeting will be used to review and discuss available information, to plan for future study activities, and to make staff work assignments. Members of the public are invited to attend the meeting; but due to limited meeting accommodations, reservations are recommended. Persons wishing to attend should notify the Study Group Staff Director by mail at Room 325H, 200 Independence Avenue, S.W., Washington, D.C. 20201, or by telephone at (202) 245-9855.

MARY JANE CALAIS,
Staff Director, Student Financial Assistance Study Group.

FEBRUARY 1, 1977.

[FR Doc.77-3644 Filed 2-3-77;8:45 am]

REVIEW PANEL ON NEW DRUG REGULATION

Meeting

Notice is hereby given, pursuant to Public Law 92-463, that the Review Panel on New Drug Regulation, established pursuant to 42 U.S.C. 217 a. by the Secretary of Health, Education, and Welfare, on February 21, 1975, will meet on Sunday, February 20, 1977, from 8:00 a.m. to 4:30 p.m. in Room 5559 of the Donahoe Building, 400 6th Street, SW., Washington, D.C. The Review Panel will consider matters pertaining to its study of existing policies and procedures for the regulation of new drugs by the Food and Drug Administration. In accordance with the provisions of section 10(d) of Public Law 92-463, the meeting will be closed to the public from 8:00 a.m. to 12:00 noon for the discussion of internal personnel matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The afternoon session from 12:30 to 4:30 p.m. will be open to the public. Further information on the Review Panel may be obtained from John D. Rust, Executive Secretary, Review Panel on New Drug Regulation, telephone (202) 472-3000. Mail should be addressed to: Room 1187 Donahoe Building, 330 Independence Avenue, SW., Washington, D.C. 20201.

Dated: January 27, 1977.

JOHN D. RUST,
Executive Secretary, Review Panel on New Drug Regulation.

[FR Doc.77-3905 Filed 2-3-77;11:51 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFd-400; FDAA-3025-EM]

COLORADO

Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and

delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on January 29, 1977, the President declared an emergency as follows:

I have determined that the impact of a drought on the State of Colorado is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93–288. I therefore declare that such an emergency exists in the State of Colorado.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Donald G. Eddy, FDAA Region VIII, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The counties of:

Baca	Kiowa
Bent	Kit Carson
Cheyenne	Las Animas
Crowley	Otero
Elbert	Prowers
El Paso	Pueblo
Huerfano	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: January 29, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77–3521 Filed 2–3–77;8:45 am]

[Docket No. NFD–399; FDAA–3027–EM]

NEW YORK

Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on January 29, 1977, the President declared an emergency as follows:

I have determined that the impact of an abnormal accumulation of snow and ice resulting from a series of blizzards and snowstorms in the State of New York is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93–288. I therefore declare that such an emergency exists in the State of New York.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Thomas R. Casey, FDAA Region II, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency.

The counties of:

Cattaraugus	Erie
Chatauqua	Niagara

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: January 29, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77–3522 Filed 2–3–77;8:45 am]

[Docket No. nfd–401; FDAA–3015–EM]

SOUTH DAKOTA

Emergency Declaration; Amendment

Notice of emergency for the State of South Dakota, dated June 17, 1976, and amended on July 8, 1976, October 18, 1976, and December 30, 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:

Bennett	Hutchinson
Bon Homme	Jackson
Charles Mix	Jones
Haakon	

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

Dated: January 27, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77–3520 Filed 2–3–77;8:45 am]

[Docket No. NFD–402; FDAA–526–DR]

FLORIDA

Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on January 31, 1977, the President declared a major disaster as follows:

I have determined that the impact of severe winter weather on the State of Florida is of sufficient severity and magnitude to warant a major disaster declaration under Public Law 93–288. I therefore declare that such a major disaster exists in the State of Florida.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Thomas P. Credle, FDAA Region IV, to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Florida to have been adversely affected by this declared major disaster:

THE COUNTIES OF:

Brevard	Marion
Broward	Martin
Charlotte	Monroe
Citrus	Okeechobee
Collier	Orange
Dade	Osceola
DeSoto	Palm Beach
Flagler	Pasco
Glades	Pinellas
Hardee	Polk
Hendry	Putnam
Hernando	St. Johns
Highlands	St. Lucie
Hillsborough	Sarasota
Indian River	Seminole
Lake	Sumter
Lee	Volusia
Manatee	

The beginning date for Federal assistance under this major disaster declaration is January 17, 1977.

Dated: January 31, 1977.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77–3659 Filed 2–3–77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MOTORIZED VEHICLES ON NATIONAL RESOURCE LANDS

Restriction of Use

Notice is hereby given that use of motorized vehicles on certain National Resource lands (public lands) in the Fossil Lake area is restricted, in accordance with the provisions of 43 CFR Parts 6010.4. These restrictions do not apply to emergency, law enforcement, and Federal or other government vehicles while being used for official or emergency purposes, or vehicles authorized by permit or contract.

The areas affected by this designation and restriction notice are located approximately eleven miles northeast of

Christmas Valley, Oregon. The legal description of the closed lands is:

WILLAMETTE MERIDIAN

T. 26 S., R19 E.,
Sec. 7,[1] NE¼SE¼, S½SE¼;
Sec. 8,[1] S½N½, S½;
Sec. 14, All;
Sec. 15, All;
Sec. 17, All;
Sec. 18, E½;
Sec. 22, All;
Sec. 23, All;
Total acres, 4120.

The use of these National Resource lands by vehicles in the past have destroyed vertebrate fossils that have significant scientific value. After consultation with various universities and museums throughout the United States, a motorized vehicle restriction was determined to be necessary to protect the paleontological values (fossils) from further disturbance and destruction. The need for the vehicle restrictions were discussed at formal public meetings for the Christmas Lake Planning Unit and informally with various off-road vehicle clubs using the area for recreation.

The restriction is effective immediately until July 31, 1978, or until the current resource planning with updated public input is completed on the Christmas Lake Planning Unit. The planning is expected to be done by June 30, 1978. Maps showing the areas described above are available at the Bureau of Land Management, Lakeview District Office, 357 North L Street (P.O. Box 151), Lakeview, Oregon 97630.

Dated: January 26, 1977.

RICHARD A. GERITY,
District Manager.

[FR Doc.77-3462 Filed 2-3-77;8:45 am]

[NM 29549]

NEW MEXICO

Application

JANUARY 28, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for Six 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 8 W.,
Sec. 10, SW¼SE¼;
Sec. 15, NW¼NE¼ and SE¼NE¼NW¼;
Sec. 21, SE¼NE¼ and NE¼SE¼.
T. 30 N., R. 9 W.,
Sec. 17, N½SW¼ and SW¼SW¼;
Sec. 18, SE¼NE½ and NE¼SE¼;
Sec. 20, SE¼SW¼;
Sec. 23, SW¼SE¼;
Sec. 26, NW¼NE¼;
Sec. 29, NE¼NW¼.

These pipelines will convey natural gas across 1.948 miles more or less of national resource lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-3506 Filed 2-3-77;8:45 am]

[M-141]

SOUTH DAKOTA

Transfer of Submarginal Lands Pine Ridge Indian Reservation

JANUARY 27, 1977.

1. Pursuant to Public Law 94-114 (89 Stat. 577) and Sec. 2 thereof the land described in paragraph 3 of this notice, together with all minerals underlying this land, whether acquired or otherwise owned by the United States, are hereby declared to be held by the United States in trust for the use and benefit of the Oglala Sioux Tribe of South Dakota. The land shall be a part of the established Pine Ridge Indian Reservation. These lands were submarginal lands acquired under Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and Sec. 55 of the Act of August 24, 1935 (49 Stat. 750, 781). This notice is issued under the authority delegated to me by Bureau Order No. 701, dated July 23, 1946, as amended.

2. All existing mineral leases, including oil and gas leases, which have been issued on this land will remain in force and effect in accordance with the terms and provisions of the Act under which the leases were issued. The lease files will be transferred to the Office of the Area Director, Bureau of Indian Affairs, Aberdeen, South Dakota. Future rentals for these leases will be paid to and collected by that office. Jurisdiction of these mineral leases is transferrd from the Bureau of Land Management to the Bureau of Indian Affairs in trust for the Oglala Sioux Tribe.

3. Sixth Principal Meridian, South Dakota.

T. 39 N., R. 36 W.,
Sec. 3, SE¼;
Sec. 10, W½E½;
Sec. 11, NE¼;
Sec. 15, NE¼;
Sec. 24, E½;
Sec. 30, NE¼; and
Sec. 35, SW¼.
T. 40 N., R. 36 W.,
Sec. 2, Lots 3 and 4, S½NW¼, and SW¼;
Sec. 5, Lots 1 and 2, and S½NE¼;
Sec. 19, Lots 1 and 2 and E½NW¼;
Sec. 26, SE¼;
Sec. 29, NE¼;
Sec. 30, Lots 3 and 4, E½SW¼, and SE¼;
Sec. 33, N½;
Sec. 35, NE¼; and
Sec. 36, NW¼.
T. 39 N., R. 37 W.,
Sec. 7, Lots 1, 2, 3, and 4 and E½W½;
Sec. 11, NE¼;
Sec. 23, NE¼; and
Sec. 33, SW¼ and W½W½SE¼.
T. 40 N., R. 37 W.,
Sec. 4, Lots 3 and 4, and S½NW¼;
Sec. 8, NW¼;
Sec. 9, All;
Sec. 15, SE¼;
Sec. 20, NW¼ and SE¼; and
Sec. 28, NE¼.
T. 39 N., R. 38 W.,
Sec. 4, SE¼;
Sec. 8, SW¼;
Sec. 17, NW¼; and
Sec. 33, NE¼.
T. 40 N., R. 38 W.,
Sec. 1, SE¼;
Sec. 7, All;
Sec. 9, N½;
Sec. 16, W½;
Sec. 17, N; and SE¼;
Sec. 18, Lots 1 and 2, and E½NW¼;
Sec. 26, NW¼;
Sec. 30, Lots 3 and 4, E½SW¼, and SE¼;
Sec. 34, SW¼; and
Sec. 35, NE¼ and SW¼.
T. 39 N., R. 39 W.,
Sec. 2, Lots 1 and 2, and S½NE¼; and
Sec. 14, NW¼.
T. 40 N., R. 39 W.,
Sec. 13, W½;
Sec. 21, SE¼;
Sec. 25, SW¼;
Sec. 28, SW¼; and
Sec. 33, NE¼.
T. 38 N., R. 40 W.,
Sec. 7, NE¼.
T. 39 N., R. 40 W.,
Sec. 32, S½NW¼ and W½SW¼.
T. 40 N., R. 40 W.,
Sec. 2, NW¼SW¼ and S½SW¼.
T. 42 N., R. 40 W.,
Sec. 3, S½N½ and S½;
Sec. 13, E½;
Sec. 24, E½;
Sec. 33, S½; and
Sec. 34, W½E½.
T. 43 N., R 40 W.,
Sec. 27, W½.
T. 40 N., R. 41 W.,
Sec. 5, SE¼.
T. 42 N., R. 41 W.,
Sec. 14, S½SW¼; and
Sec. 22, W½E½.
T. 38 N., R. 42 W.,
Sec. 3, Lots 1 and 2, and S½NE¼;
Sec. 7, SE¼;
Sec. 15, SW¼; and
Sec. 27, NW¼.
T. 39 N., R. 42 W.,
Sec. 15, NE¼;
Sec. 20, NE¼; and
Sec. 23, SE¼.
T. 39 N., R. 43 W.,
Sec. 16, E½;
Sec. 28, S½; and
Sec. 32, SW¼.
T. 37 N., R. 44 W.,
Sec. 9, NW¼.
T. 36 N., R. 45 W.,
Sec. 2, Lots 1 and 2; and
Sec. 18, Lots 3 and 4, and E½SW¼.
T. 38 N., R. 45 W.,
Sec. 30, E½.

[1] Except the present vehicle trail used as access to the Sand Dunes. The areas and access corridor will be posted by signs on the boundaries and at common points of vehicular access.

T. 39 N., R. 45 W.,
Sec. 15, W½NW¼.
T. 35 N., R. 46 W.,
Sec. 5, SE¼.
T. 36 N., R. 46 W.,
Sec. 8, NW¼ and NW¼SW¼;
Sec. 13, SE¼; and
Sec. 22, SW¼.
T. 39 N., R. 46 W.,
Sec. 7, NE¼; and
Sec. 36, NW¼.
T. 38 N., R. 47 W.,
Sec. 28, SW¼.
T. 39 N., R. 47 W.,
Sec. 10, NW¼; and
Sec. 25, NE¼.
T. 26 N., R. 48 W.,
Sec. 32, Lots 1, 2, 3, and 4.
T. 38 N., R. 48 W.,
Sec. 36, S½.

The areas described aggregate 18,064.48 acres.

EDWIN ZAIDLICZ,
State Director.

[FR Doc.77-3486 Filed 2-3-77;8:45 am]

[U-018212]

UTAH

Notice of Application

Notice is hereby given that pursuant to the Act of May 24, 1928 (45 Stat. 728; 49 U.S.C. 211–214), as amended, and the regulations in 43 CFR, Part 2911, American Gilsonite Company, has applied for a 20-year renewal of lease U–018212 for airport purposes across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 8 S., R. 24 E.,
Sec. 26, NW¼, NW¼SW¼;
Sec. 27, E½SE¼, SW¼SE¼.

Containing 320 acres in Uintah County.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the action should be approved, and if so, under what terms and conditions.

Interested parties should express their views to the Vernal District Manager, Bureau of Land Management, 91 W. Main St., P.O. Box F, Vernal, Utah 84078.

Dated: January 28, 1977.

PAUL L. HOWARD,
State Director.

[FR Doc.77-3487 Filed 2-3-77;8:45 am]

[OR 11469 (Wash.)]

WASHINGTON

Opportunity for Public Hearing and Republication of Proposed Withdrawal and Reservation of Lands

JANUARY 24, 1977.

The Department of Agriculture on behalf of the Forest Service on January 10, 1974, filed application, Serial No. OR 11469 (Wash.), for the withdrawal of approximately 2,898 acres of national forest lands from location or entry under the mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights. The Department of Agriculture has requested that the withdrawal be granted for a permanent duration.

The Forest Service desires these lands for use as roadside and trailside scenic areas.

A notice of proposed withdrawal and reservation of lands was published on June 12, 1974 in the FEDERAL REGISTER (39 FR 20618).

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, at the address shown below, by March 1, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

All previous comments submitted in connection with the withdrawal proposal have been included in the case file record and will be considered in making a final determination on the proposal.

The lands involved in the application are:

WILLAMETTE MERIDIAN, WASHINGTON

MT. BAKER NATIONAL FOREST

Hannegan Road (Forest Service Road No. 402): Travel Influence Zone

A strip of land 1,320 feet on each side of surveyed centerline of said road from the west line of lot 8, sec. 31, T. 40 N., R. 9 E., to its terminus at Hannegan Campground in the NE¼SE¼, sec. 35, T. 40 N., R. 9 E., through the following sections:

T. 39 N., R. 9 E., Unsurveyed,
Sec. 3, NW¼NE¼, N½NW¼, and SW¼NW¼;
Sec. 4, N½, and N½S½;
Sec. 5, N½, and N½SE¼;
Sec. 6, N½NE¼.
T. 40 N., R. 9 E., Unsurveyed,
Sec. 31, lot 8, N½SE¼, and SE¼SE¼;
Sec. 32, W½SW¼, SE¼SW¼, and SW¼SE¼;
Sec. 33, S½SE¼;
Sec. 34, S½NE¼, SE¼NW¼, and S½;
Sec. 35, SW¼NE¼, W½SE¼NE¼, W½E½SE¼NE¼, S½NW¼, SW¼, W½SE¼, W½E½SE¼, and W½E½E½SE¼.

Whatcom Pass Trail (F.S. Trail No. 674): Travel Influence Zone

A strip of land 1,320 feet on each side of said existing trail as located on-the-ground from its beginning at the end of the Hannegan Road No. 402 in the NE¼SE¼, sec. 35, T. 40 N., R. 9 E., (unsurveyed) to where it enters the North Cascades National Park on the east line of the NE¼NE¼, sec. 8, T. 39 N., R. 10 E., W.M. (unsurveyed) through the following sections:

T. 39 N., R. 9 E., Unsurveyed,
Sec. 1, NE¼, N½NW¼, SE¼NW¼, and N½SE¼.
T. 39 N., R. 10 E., Unsurveyed,
Sec. 5, SW¼SW¼, and S½SE¼;
Sec. 6, SW¼NE¼, W½NW¼, SE¼NW¼, and S½;
Sec. 7, NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 8, N½, SW¼, N½SE¼, and SW¼SE¼.
T. 40 N., R. 9 E., Partially Surveyed,
Sec. 35, E½E½SE¼NE¼, and E½E½E½SE¼;
Sec. 36, S½NW¼, SW¼, W½SE¼, and SE¼SE¼.

The areas described aggregate 2,898 acres, approximately, in Whatcom County, Washington.

All communications in connection with this withdrawal should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, PO Box 2965, Portland, Oregon 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-3464 Filed 2-3-77;8:45 am]

Wyoming 57253

WYOMING

Notice of Application

JANUARY 26, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Northwest Pipeline Corporation of Salt Lake City, Utah, filed an amended application for a right-of-way to construct a 4½ inch pipeline for the purpose of transporting natural gas across the following described National Resource Lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 28 N. R. 114 W.,
Sec. 3, lots 17 and 18;
Sec. 4, lot 20;
Sec. 10, E½ W½.

The pipeline will transport natural gas, into an existing gathering system, from a point in sec. 4, to a point in sec. 10, T. 28 N., R. 114 W., Sublette County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the amended application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-3489 Filed 2-3-77;8:45 am]

QUALIFIED JOINT BIDDERS

Extension of Time To File Statements

Under the regulations 43 CFR 3302.3–2,(a), any person who wishes to submit a joint bid for an oil and gas lease under the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343) during the six months bidding period which began on November 1, 1976, must have filed no later than 45 days before that date a sworn statement of production covering

the prior production period and affirming an average daily production during that time of no more than 1.6 million barrels a day of crude oil, natural gas and liquified petroleum products. The deadline was extended to November 12, 1976, by annuoncement in the FEDERAL REGISTER of November 5, 1976.

Since November 12, 1976, a number of companies who had not timely filed their statements of production have inquired as to whether an extension of time might be granted. It has now been determined that acceptance of statements of production up until the close of business on February 22, 1977, would be in the national interest and not incompatible with the purpose of the regulations. Therefore, any such sworn statements as to production during the period January 1, 1976, through June 30, 1976, which attest to average daily production of less in 1.6 million barrels of crude oil, natural gas, and liquified petroleum products will be accepted by this office until the close of business of February 22, 1977, to qualify the person to bid jointly during the bidding period ending April 30, 1977.

Dated: February 1, 1977.

CURT BERKLUND,
Director, Bureau of Land Management.

[FR Doc.77-3519 Filed 2-3-77;8:45 am]

Fish and Wildlife Service

INTERNATIONAL ANIMAL EXCHANGE

Threatened Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: International Animal Exchange, Inc., 1489 E. Nine Road, Ferndale, Michigan 48220. Thomas J. Hunt, V.P.

OMB NO. 42-R1575

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Permit is requested to engage in a series of transactions over a two-year period to the full extent of the proposed amendment of 50 C.F.R. §17.33 (41 FR 18618 (May 5, 1976)), involving all specimens of captive self-sustaining populations listed in said proposed amendment.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
International Animal Exchange, Inc.
1489 E. Nine Mile Road
Ferndale, Michigan 48220
(313) 545-2820

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT —
WEIGHT —
DATE OF BIRTH —
COLOR HAIR —
COLOR EYES —
PHONE NUMBER WHERE EMPLOYED —
SOCIAL SECURITY NUMBER —
OCCUPATION —
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT —

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Corporation is in the business of buying, exchanging, selling and propagating wild mammals, birds and reptiles.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
Thomas J. Hunt, V.P., (313) 545-2820
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Michigan

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
International Animal Exchange, Inc.
1489 E. Nine Mile Road
Ferndale, Michigan 48220
International Animal Exchange, Inc.
Lightener Road
Port Clinton, Ohio 43452
International Animal Exchange, Inc.
Star Route
Tehachapi, California 93561

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number(s))
Port Approval #EX3-212 (attached)
CISOA-Class B Dealer 34BD-4 (attached)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document)
Michigan-Game Breeder License No.272(att'd)
Ohio-Commercial Propagating Lic.No. 197
Cal.-Domesticated Game Breeders Lic. No. 72 (attached)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE: As soon as possible

11. DURATION NEEDED: 2 years, as proposed, then renewable

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED. U.S.C. §17.33(a)(1)-(7): (1) names of species; (2) facilities; (3) technical expertise; (4) statement of participation; (5) container specifications; (6) mortality list; (7) statement of justification.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Thomas J Hunt
DATE DEC. 9 - 1976

GPO 835-042

ATTACHMENT (1)

COMMON AND SCIENTIFIC NAMES OF SPECIES SOUGHT TO BE COVERED

Jaguar—*Panthera onca*
Lemur, Black—*Lemur macaco*
Lemur, Ring-tailed—*Lemur catta*
Leopard—*Panthera pardus*
Tiger—*Panthera tigris*
Duck, Hawaiian (Koloa)—*Anas wyvilliana*
Goose, Nene (Hawaiian)—*Branta sandvicensis*
Pheasant, brown-eared—*Crossoptilon mantchuricum*
Pheasant, Edward's—*Lophura edwardsi*
Pheasant, Humes (Bartailed) *Syrmaticus humiae*
Pheasant, Mikado—*Syrmaticus mikado*
Pheasant, Ralawan peacock—*polyplectron emphanum*
Pheasant, Swinhoe—*Lophura swinhoii*
Pheasant, White-eared—*Crossoptilon crossoptilon*
Quail, Masked Bobwhite—*Colinus virginianus ridgwayi*
Teal, Laysan (Laysan duck)—*Anas laysanensis*

With regard to specimens of a captive, self-sustaining population of each of the above species, applicant seeks a permit authorizing it to engage in the delivery, receipt, carriage, transportation and/or shipment in interstate commerce in the course of a commercial activity of; and/or to be able to sell or offer for sale in interstate commerce such specimens. The permit is souhgt for multiple transactions over a two-year period.

ATTACHMENT (2)

DESCRIPTION OF FACILITIES

1. *Port Clinton, Ohio.* An all-weather facility encompassing 65 acres designed for handling, care and propagation of diverse species of wildlife, including all the species of mammals and birds on the proposed CSSP list. The buildings and equipment at this facility are valued in excess of $500,000. They include a heated barn which contains USDA approved cages; and various open and enclosed shelters. A fence with four large subdivisions encloses and protects animals (see photographs attached).

2. *Tehachapi, California.* Highway 202, Schout Road, Tehachapi (east of Bakersfield), California. Accessible by private road, facility is on 53 acres of rolling pasture land, all of which is fenced. Thirty-five acres are fenced in chain-link suitable for retention of wild animals. There are also ten chain-link corrals. Water on property is provided through a spring-fed pond; separate running stream with waterfall, 3 power wells, and 1 windmill. There are 3 houses and 9 outbuildings. An illustration of a pole barn (to be enclosed this year) is shown in illustration C. Cages and barn with pens are shown in A and B, respectively.

3. *Ferndale, Michigan.* This is an all-weather enclosed facility designed for the handling, care and propagation of diverse species of exotic wildlife including all the species of mammals and birds on the proposed captive self-sustaining population ("CSSP") list. The buildings and equipment, valued in excess of $200,000, include a laboratory, offices, equipment storage, and are presently utilized as a USDA certified bird quarantine station. This facility can accommodate 200 animals if conversion is necessary.

ATTACHMENT (3)

RESUMES OF EXPERTISE

The principal veterinarians, and their qualifications, who will care for the animals described in this application at IAE's three locations are as follows:

Dr. Martin Dinnes, 1559 Sepulveda Blvd., Los Angeles, California 90025, is a consultant to International Animal Exchange. Dr. Dinnes' practice is limited to exotic animals, a field in which he has been actively engaged for more than 10 years. In this field of exotic animals he is recognized as an outstanding practitioner, and is a member of AAZV. Dr. Dinnes has worked principally with the California facility and has also done international assignments with IAE.

Dr. John Maike, 117 Exchange Street, Bellevue, Ohio, regularly inspects all animals incoming and outgoing from IAE's Port Clinton, Ohio facility. A member of AAZV, Dr. Maike has had seven years of experience dealing with a large number and wide variety of exotic animals.

Dr. Fred Shulak, 17630 W. 12 Mile Road, Southfield, Michigan, has served International Animal Exchange as a consultant for seven years and, in this capacity, performs most of the veterinary work at IAE's Ferndale facility. Dr. Shulak has been practicing for a total of 12 years, during which he has had wide experience with exotic animals.

To assist the above-mentioned veterinarians in the handling and care of its exotic animals, IAE retains at each facility the following numbers of employees:

Port Clinton	12
Ferndale	4
Tehachapi	4

ATTACHMENT (4)

STATEMENT OF AGREEMENT RE: COOPERATIVE BREEDING PROGRAMS AND STUDBOOKS

IAE agrees to participate in cooperative breeding programs, either at its three facilities or at facilities of other CSSP program participants. IAE further agrees to maintain studbooks itself and to continue to contribute to existing studbooks. IAE has, in the past, been a contributor to such existing studbooks.

INTERNATIONAL ANIMAL EXCHANGE
By THOMAS J. HUNS

ATTACHMENT (5)

DESCRIPTION OF CONTAINERS

(a) Large cats:

(1) Trucks. If the specimens are to be transported by truck over a moderate distance, IAE possesses a red gooseneck trailer with the following interior dimensions for each of four compartments: length—89"; width—72"; height—84" (see truck illustration A). Each compartment is capable of handling one specimen. When the animals are already crated, they are transported on IAE's flat bed truck which has a total size from the neck to the end of the flat bed of 352" x 90" (see truck illustration B).

(2) Crates. Crating sizes depend on the size and age of the cat involved. In the case of 6-month-old cats, IAE usually employs a crate of the following proportions: 53" L x 28" H x 25" W (see container illustration A). In the case of full grown specimens IAE uses crates of proportions: 66" L x 38" W x 39" H. The crate is constructed of wood by a manufacturing company, is metal lined and has a barred front. These crates have been approved by IAE consultant veterinarians (as are all IAE's crates) and have been in use for 3 years.

(3) Care of Cats. All animals carried on IAE vehicles are fed and watered at appropriate intervals, following as closely as possible their normal feeding schedule. Fresh meat for the large cats is purchased by the driver of the vehicle enroute; water is provided frequently during the day, the amount provided depending in part on the temperature. Cleaning equipment for the cages is carried on the vehicle.

(b) Lemurs:

(1) Trucks. Lemurs are usually transported by air, with transportation to and from the airports provided in IAE's heated and ventilated panel truck (see truck illustration C).

(2) Crates. Wood and metal with proper ventilation custom built to the needs of each lemur. In the case of a 6-month to 1-year-old Black Lemur, 2 ft. x 2 ft. x 2 ft. Compatible lemurs are sometimes shipped together (see container illustration B).

(3) Care of Lemurs. Food and moisture (water, sponge or oranges, depending on length of trip) is provided in each container.

(c) Birds:

(1) Trucks. Birds are usually tranported by air, with transportation to and from the airport provided in IAE's panel truck (see truck illustration C).

(2) Crates. Primarily custom made containers constructed with wood frame cloth covered on the interior with burlap and canvas. Size is dictated by the size of the species being transported, but a general rule is that the crate is triple the size of the species (see container illustration C).

(3) Care of Birds. All crates have containers for food and water provided inside of the shipping crates and accessible door openings for placement of food and water in the event of a delay in transit. In most cases the transit time from shipping point to receiving point is less than 24 hours so that enough food and water can be placed in the shipping crate to meet the needs of the species being transported. For international shipments, arrangements are made with our forwarding agents and the RSPCA station in London, England (Mr. Whitaker, manager). For domestic shipments, driver takes the species to the airport and notifies client of the flight number, air waybill number and time of arrival so that the specimen can be met at the airport.

The crates are carefully labeled with both day and night telephone numbers of IAE so that in the event of a delay in transit someone from IAE is available to handle the emergency and to cause corrective action to be undertaken. IAE telephone lines are manned 24 hours a day.

Generally, the same procedures we now use with any animals are effective and humane and we feel they would be successful with any CSSP animal.

ATTACHMENT (6)

DESCRIPTION OF MORTALITIES

Mortalities involving CSSP species listed and held by the applicant, or any other wildlife of the same genus or family are listed below. A description of the cause of such mortality is attached.

1 Bengal tiger died April 2, 1976 (autopsy report and permit attached).

To avoid, in the future, a mortality of this nature, as well as to insure that all animals receive proper care while in transit, IAE is seeking, whenever possible, to perform all transportation functions directly, without the use of outside contractors.

ATTACHMENT (7)

JUSTIFICATION FOR PERMIT

Applicant is justified in obtaining the CSSP permit sought on the basis of its twenty-six years of experience (fifteen under its present name) in shipping, handling and caring for exotic animals. Based thereon it can make an important contribution to the propagation of captive populations of animals endangered in the wild.

(a) As noted in Attachment (1) applicant is qualified for, and seeks to receive a permit authorizing it to engage in the delivery, receipt, carriage, transportation and shipment in interstate commerce, in the course of a commercial activity of; and to sell or offer for sale in interstate commerce, specimens of each and all of the captive, self-sustaining populations ("CSSP's") listed in proposed amendment to 50 CFR § 17.11.

Transportation. Applicant is one of the largest and most experienced carriers and shippers of exotic wildlife in the world. IAE could, therefore, be of great value in offering its assistance and expertise to qualifying zoos and organizations which need to ship CSSP specimens under this program and are not capable themselves of doing so directly.

Propagation. IAE possesses the requisite facilities, personnel and expertise required to propagate species on the proposed CSSP list. IAE intends, in certain cases, to engage in such propagation in the future. To this end, IAE would like to be qualified to purchase CSSP animals for propagation, and to be able to sell the progeny of such animals.

Purchase and Sale. IAE would like to be authorized to purchase CSSP specimens which are overstocked at a participating zoo or other organization and would like to be able to resell them later to qualifying zoos and organizations. IAE's reputation for care and reliability, together with its knowledge of where animals are in surplus and are needed, would be of great assistance in locating beneficial living conditions for CSSP specimens.

Secondly, IAE already possesses and would like to offer for sale and to transport and ship to purchasers participating in the CSSP program, certain of the species on the CSSP list in furtherance of the goals identified in the CSSP program.

(b) IAE's carriage and shipment of CSSP specimens will terminate, in each case, in the temporary or permanent placement of a specimen at a qualifying IAE facility or a qualifying zoo or organization which seeks to propagate CSSP's or engage in other activities permitted under proposed amendments to § 17.22. IAE agrees, in this regard, to comply with the regulations to be issued concerning multiply forms and animal identification.

INTERNATIONAL ANIMAL EXCHANGE

By THOMAS J. HOU

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-539-25; please refer to this number when submitting comments. All relevant comments received on or before March 7, 1977 will be considered.

Dated: February 1, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office U.S. Fish and Wildlife Service.

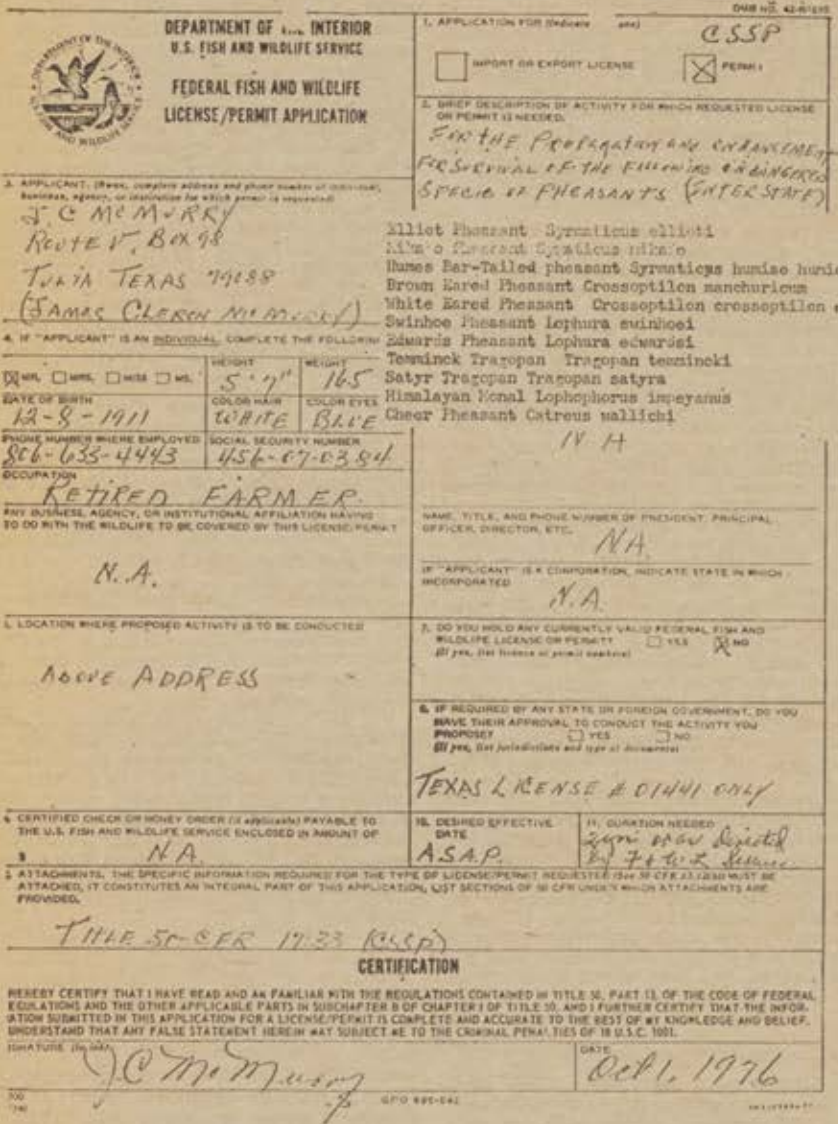
[FR Doc.77-3630 Filed 2-3-77;8:45 am]

JAMES C. McMURRY

Threatened Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: McMurry, James Cleron, Route V, Box 98, Tulia, Texas 79088.



DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate one) — CSSP — ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: FOR THE PROPAGATION AND ENHANCEMENT FOR SURVIVAL OF THE FOLLOWING ENDANGERED SPECIES OF PHEASANTS (INTERSTATE)

3. APPLICANT: J. C McMURRY, ROUTE V, BOX 98, TULIA TEXAS 79088 (JAMES CLERON McMURRY)

Elliot Pheasant Syrmaticus elliotti
Mikado Pheasant Syrmaticus mikado
Humes Bar-Tailed pheasant Syrmaticus humiae humiae
Brown Eared Pheasant Crossoptilon manchuricum
White Eared Pheasant Crossoptilon crossoptilon drouyn
Swinhoe Pheasant Lophura swinhoei
Edwards Pheasant Lophura edwardsi
Temminck Tragopan Tragopan temminckii
Satyr Tragopan Tragopan satyra
Himalayan Monal Lophophorus impeyanus
Cheer Pheasant Catreus wallichi

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: ☒ MR. ☐ MRS. ☐ MISS ☐ MS.

HEIGHT	WEIGHT
5'7"	165

DATE OF BIRTH	COLOR HAIR	COLOR EYES
12-8-1911	WHITE	BLUE

PHONE NUMBER WHERE EMPLOYED: 806-635-4443
SOCIAL SECURITY NUMBER: 456-07-0391
OCCUPATION: RETIRED FARMER.
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: N.A.

IV H

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: NA.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: N.A.

5. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: ABOVE ADDRESS

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL, FISH AND WILDLIFE LICENSE OR PERMIT ☐ YES ☒ NO (If yes, list license or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO (If yes, list jurisdictions and type of documents): TEXAS LICENSE # 01441 ONLY

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: N.A.

10. DESIRED EFFECTIVE DATE: A.S.A.P.

11. DURATION NEEDED: Year May Period By 7 to 2 Years

12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED: TITLE 50 CFR 17.23 (CSSP)

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): J C McMurry — DATE: Oct 1, 1976

GPO 895-641

TULIA, TEX., *October 1, 1976.*

U.S. FISH AND WILDLIFE SERVICE—DIRECTOR
P.O. Box 19183
Washington, D.C. 20036

DEAR SIR: In applying for a CSSP permit will give a brief statement as to why I feel I should have a permit.

I have had in my possession many of the birds now required to have a permit for as many as 15 years. I have been propagating captive population Pheasants since 1958. I am not a large breeder but have been fairly successful in that I can not supply the demand for most of the species that I keep. I have been generous with my time and knowledge to anyone interested in breeding Pheasants. There is not another aviary nearby and I am asked to allow visitors by many organizations which include school groups, Scouts, Study clubs, church groups etc. I have never refused permission for any group or individual to visit the facilities and often follow these visits with talks and slides of the birds.

I am a member of several Pheasant Associations and have cooperated with them and will continue to cooperate in any way possible to encourage new breeders and to maintain a pure captive population of Pheasants.

All shipping crates meet suggested standards for safe and humane handling. Most crates are wooden with cardboard liners, with enough feed and water for twice the normal delivery time. Foam rubber for the top of the crates to prevent damage to the heads. In colder weather heavy cardboard boxes of double thickness are used with good results.

Have had a very low mortality rate through the years. Now and then a bird will be lost due to a virus but of later years have new medications that are most satisfactory. Some time back I lost several Impeyans due to air spraying of agricultural insecticides but new controls have eliminated that problem. Now and then a bird will kill its mate but new and larger facilities have been built and only completed last year. A few loses will occur from age. You can't find any thing wrong by having them posted so just assume its age.

I would like to have a permit to be able to continue with the hobby that I have enjoyed for a number of years. I have now retired from farming and have more time to devote to the birds. I wish to be able to buy new stock from time to time and to sell the surplus stock that I raise. I feel this is the last chance for many birds as some breeders will give up rather than go to the trouble of making application for permits. In reality it is a loss of freedom within our own nation, as imports and exports have been controlled for quite some time.

I have no idea of the disposition of my birds as I plan to keep them as long as I am able or until everyone is forced to dispose of their birds due to excessive controls. I would hope to be able to pass them on to someone that has sufficient interest to maintain them for their advancement.

J. C. McMURRY.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-430-25; please refer to this number when submitting comments. All relevant comments received on or before March 7, 1977.

Dated: February 1, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-3631 Filed 2-3-77;8:45 am]

WARREN J. MACK

Threatened Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 USC 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Warren J. Mack, 600 E River Road, Rochester, New York 14623.

OMB NO. 42-R1075

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
To ship pheasants in interstate commerce in the course of a commercial activity for captive propagation. For captive breed only

3. APPLICANT. (If new, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Warren J. Mack
600 E. River Road
Rochester, New York 14623

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: 6 ft. · WEIGHT: 160
DATE OF BIRTH: 7-6-10
COLOR HAIR: Gray
COLOR EYES: Blue
PHONE NUMBER WHERE EMPLOYED:
SOCIAL SECURITY NUMBER: 120-32-7113
OCCUPATION: Retired
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
600 E. River Road
Rochester, New York 14623

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☐ NO
(If yes, list license or permit number(s))

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
Permit applied for

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF $

10. DESIRED EFFECTIVE DATE: 10-1-76

11. DURATION NEEDED: 2 years

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
17:33

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

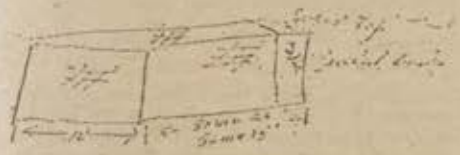
SIGNATURE (In ink) Warren J. Mack — DATE Sept 26, 1976

3-200
(6/74)

17:33

(1) Pheasant, Bar-tailed, *Syrmaticus humiae*. Pheasant, Brown eared. *Crossoptilon mantchuricum*. Pheasant, Swinhoe, *Lophura Swinhoii*. Pheasant, Elliot, *Syrmaticus elliotii*.

(2) Pens are 10 ft. x 20 ft., some 10 ft. x 15 ft., solid on west end with shelter.



(3) I have been raising Swinhoe and Elliot Pheasants about 30 years. Bar-tailed and Brown eared about 10 years.

I usually raise between 100–150 young each year of these species combined. This year I cut this to about half as it is impossible to dispose of this many with restrictions as they are now. If conditions do not improve I will stop raising these breeds altogether as I cannot afford to raise a lot of birds I cannot dispose of. I cannot afford the feed or pen space.

(4) I am willing to cooperate in any way possible to insure the survival of Endangered Species.

(5) I use wire bound wooden crates with padded tops with containers for feed and water. I have been shipping birds this way for nearly 50 years and have had no trouble as yet.

(6) None except from old age.

(7) I believe the only way these species or any of the pheasants will survive is through captive propagation and if people like me who breed 95% or more of these birds do not have a ready way to dispose of our surplus we will have no other choice than to stop breeding these birds and dispose of our stock. We only raise them as a hobby but must sell our surplus for feed and pen repairs.

Add to (6) other than 1975 when I lost 9 Swinhoe from fighting due to lack of pen space to separate them. The only cure is changing your rules so that surplus birds can be disposed of easily. I could have sold all of these birds if I was willing to ship them without permits.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-385-07; please refer to this number when submitting comments. All relevant comments received on or before March 7, 1977.

Dated: February 1, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-3632 Filed 2-3-77;8:45 am]

UNIVERSITY OF CALIFORNIA

Receipt of Application for an Amendment to Marine Mammal Permit

A permit authorizing taking and conduct of scientific research activities with sea otters (*Enhydra lutris*) was issued to the University of California, Physiological Research Laboratory, La Jolla, California, on October 22, 1976, pursuant to the Marine Mammal Protection Act of 1972. A notice containing the application for the permit was published in the FEDERAL REGISTER on May 27, 1976 (41 FR 21658, 21660), soliciting public comments for a period of 30 days.

A notice of issuance of the permit was published in the FEDERAL REGISTER on November 8, 1976.

Under date of December 2, 1976, Dr. G. L. Kooyman, Physiological Research Laboratory, University of California, La Jolla, California, submitted a request for an amendment to the permit. Published herewith is that request. It, too, is being considered pursuant to § 13.23, Title 50 Code of Federal Regulations (see 39 FR 1162).

SCRIPPS INSTITUTION OF OCEANOGRAPHY,
La Jolla, California,
December 2, 1976.

Dr. Lynn A. Greenwalt, Director,
Bureau of Fish and Wildlife,
Department of the Interior,
Washington, D.C.

DEAR DR. GREENWALT: Recently I received a permit to collect and conduct thermoregulatory studies on 4 sea otters, *Enhydra lutris*. I was pleased to receive the permit and interpret this as recognition both by the Department of the Interior and the Marine Mammal Commission of the importance of such studies. However, there is a blanket condition placed on mine and the 3 other permits requiring their collection in Alaska.

I would like to appeal that condition of the permit and I would like to be allowed to collect the otters in California. My rationale for this appeal is as follows:

(1) Of the 4 permits issued it is essential only in the case of McGinnis's and mine that the work is done in our home laboratories in California. The other 2 studies could be done in Alaska. In fact, Dr. Ohata has recently taken a new position and may not be collecting otters at all. Furthermore, Dr. McGinnis's project and mine are not only compatible but complementary so that we can use the same animals. Thus, only 4 instead of 8 to 10 otters need be collected for the two projects.

(2) A long, hazardous and expensive journey is required to bring the animals from Alaska to California. I have been advised by NMFS biologists in Seattle and Alaska that it would be unwise to attempt to use commercial airline transport because of the potential delays and we could not tend the animals while airborne. Therefore, a charter aircraft would be necessary. In addition, a boat would have to be chartered for the collections. My estimate of the cost of the collection trip, exclusive of the labor of those making the collection, is $10,000. Furthermore, because the Alaskan winter is upon us the collections could not be made until next spring which will delay our project. Most importantly, such a long trip seriously increases the risk of some otter mortality in transit, and considering the costs involved I would not be able to attempt a second collection.

(3) Alaska collections force me to collect all the animals at once, which increases our husbandry effort substantially. I would prefer to collect them two at a time which is quite feasible in California.

Finally, I would like to comment on the letter of recommendation from the Marine Mammal Commission of 27 August 1976. I agree with most of the recommendations in this letter with the exception of some portions of Part II. Removal from Alaskan Population. I am surprised that the California population of sea otters is considered threatened. It is a growing and expanding population. Paradoxically the population's Achilles heel is its limited distribution. Yet, the territorial expansion which is a very healthy sign of the population's viability is causing much controversy due to the dispute as to whether they should be allowed to expand their range. At the present time there is no threat to the otters continued existence in California, and the removal of 4 otters would not harm the population as a whole, and with few exceptions even local concentrations.

In summary, I would like to be able to collect 4 otters in California in the next few months. The removal of 4 otters from California waters will not endanger the continued existence of this species along California shores. Collections in this area will reduce the costs of our project considerably, as well as greatly increase the potential success of the study.

Sincerely,

G. L. KOOYMAN, Ph. D.,
Associate Research Physiologist.

Documents and other information submitted in connection with this application for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PR12-183-10; please refer to this number when submitting comments. All relevant comments received on or before March 7, 1977.

Dated: February 1, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc.77-3633 Filed 2-3-77;8:45 am]

BABY ZOO INC.

Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Baby Zoo Inc., 9777 Golflinks Road, P.O. Box 5426, Oakland, California 94605. Lutz Ruhe, President.

OMB NO. 42-R1870

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: ship two black leopards (1.1) (panthera pardus) Endangered Species in interstate commerce in the course of a commercial activity for hand raising in captivity to enhance the survival of the species.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Baby Zoo Inc.
9777 Golflinks Road
P.O. Box 5426
Oakland, Ca. 94605
415-569-8819

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS.
HEIGHT: WEIGHT:
DATE OF BIRTH: COLOR HAIR: COLOR EYES:
PHONE NUMBER WHERE EMPLOYED: SOCIAL SECURITY NUMBER:
OCCUPATION:

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION: Baby Animal Zoo, exhibition of baby animals to the general public

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: Oakland Baby Zoo

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: LUTZ RUHE, Pres. (415) 569-8819

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: California

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: interstate shipment from the Baltimore Zoo to the Oakland Baby Zoo and exhibition at the Oakland Baby Zoo
Knowland Park
9777 Golflinks Road
Oakland, Ca. 94605

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)
N/A

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $

10. DESIRED EFFECTIVE DATE: 11/16/76

11. DURATION NEEDED: until animals are relocated (6 ths)

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED. WE REFER YOU TO OUR FILE NUMBER WITH YOUR DEPARTMENT #PRT 2-317.25. ALL ABOVE REQUIRED INFORMATION IS CONTAINED IN OUR APPLICATION.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE: Lutz Ruhe Pres. DATE: 10-14-76

3-200
(6/74)

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

ATTACHMENTS

17.23(a) 1. PANTHERA PARDUS, BLACK LEOPARD, 1 Male and 1 Female, Born October 3, 1976.

2. The animals will be purchased from the Baltimore Zoo, Druid Hill Park, Baltimore, Maryland 21217. To be purchased are 1 male and 1 female black leopard, born October 3, 1976, for a purchase price of $300 each.

3. The mother did not accept the black leopard cubs. The Oakland Baby Zoo is equipped and capable of hand-raising these animals. The Baltimore Zoo does not have the space to house these leopards properly. It would enhance the survival of the species if the animals could be relocated to the Baby Zoo facility for raising until a permanent home can be found.

4. The Oakland Baby Zoo exhibits young animals to the general public in a safe environment for the animals and patrons. Oakland Baby Zoo, Knowland Park, 9777 Golflinks Road, Oakland, Ca. 94605.

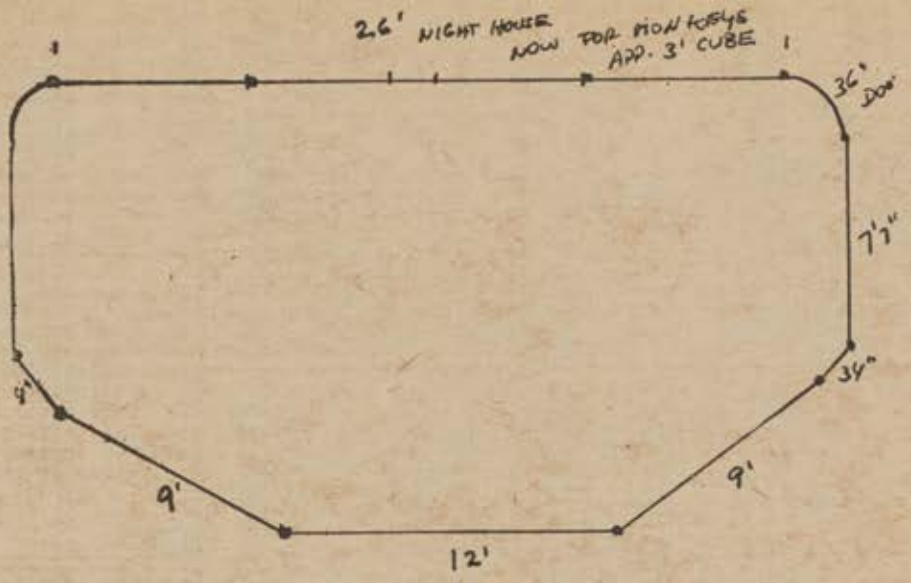
5. The leopards were born in captivity.

6. N/A.

7. N/A.

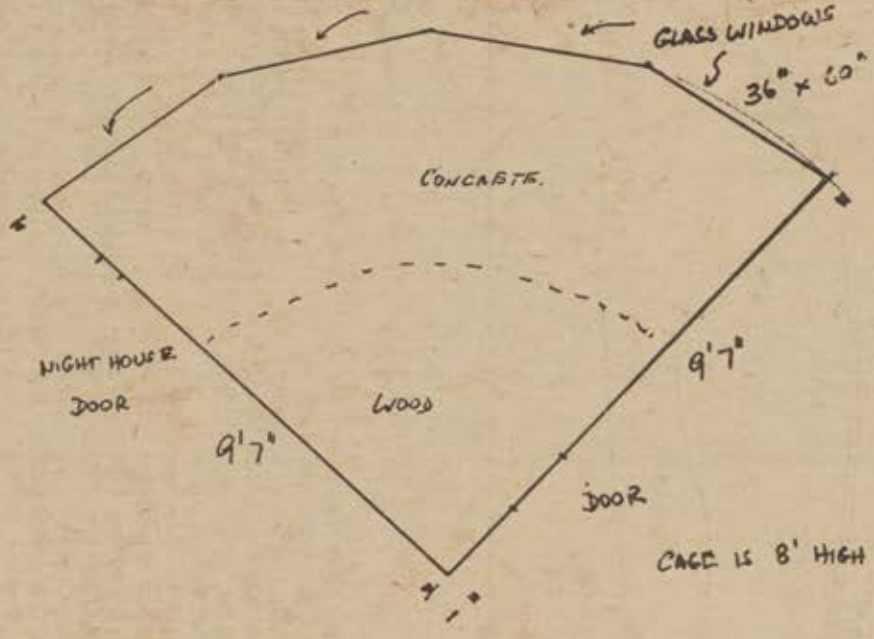
17.23(b) (c) (d) N/A.

SAN JOSE BABY ZOO LOCATION



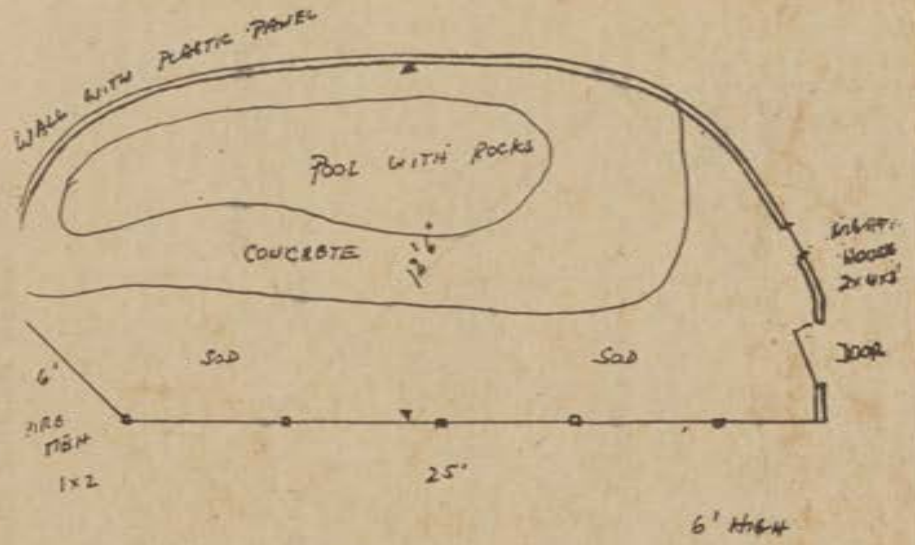
WIRE MESH 2"x4" ALL OVER
CONCRETE FLOOR WITH HEAT PAD IN CENTER
CAGE 10' HIGH

SAN JOSE BABY ZOO LOCATION



CONCRETE + WOOD FLOOR
50/50 %

SAN JOSE DABY ZOO LOCATION.



Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-467-07; please refer to this number when submitting comments. All revelant comments received on or before March 7, 1977.

Dated: February 1, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-3634 Filed 2-3-77;8:45 am]

HOLLY A. J. NICHOLS

Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Holly A. J. Nichols, 110611 Mt. Boracho, San Antonio, Texas 78213.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

OMB NO. 42-R1311

1. APPLICATION FOR (Mark only one) ☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
Importation of either two Amazona imparata (Imperial Parrot) an endangered species or two Amazona arausiaca (Grenadine Parrot) (if USFWS considers it as an endangered species at the time of importation) from Dominica, Windward Islands, West Indies, to the address of the applicant for purposes of propagation & study.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Holly A.J. Nichols
10611 Mt. Boracho
San Antonio, Texas 78213
512-342-4417

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☒ MRS. ☐ MISS ☐ MS.
HEIGHT: 5'2" WEIGHT: 105 lb.
DATE OF BIRTH: 21 September 1945
COLOR HAIR: Black COLOR EYES: Brown
PHONE NUMBER WHERE EMPLOYED: 512-342-4417 SOCIAL SECURITY NUMBER: 453-80-5919
OCCUPATION: ornithologist - aviculturist
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THIS WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:
Work sponsored by Wildlife Preservation Trust (formerly IWPT, Show Animals From Extinction) 34th & Girard Ave, Philadelphia, Penna.

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION:
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED:
Two birds will be taken from wild as nestlings on Dominica, Windward Islands, West Indies; imported through Miami Florida to 10611 Mt. Boracho San Antonio Texas 78213

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list License or permit number(s))

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document(s))
An attached note from Dominica Government indicates export permission will be given when birds are ready for export & will accompany birds when imported into USA

9. CERTIFIED CHECK OR MONEY ORDER (If application) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $

10. DESIRED EFFECTIVE DATE: 1 June 1977

11. DURATION NEEDED: 3 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED: Attachments (1) Letter (2) Notice by Applicant et al. (3) Copy of Note from Dominican Government (4) copy of specific plans of pens.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Do not type): Holly A.J. Nichols
DATE: 29 November 1977

3-200
(6/74)
GPO 838-042

DIRECTOR,
Fish & Wildlife Service,
U.S. Department of the Interior,
Washington, D.C. 20240

DEAR SIR: I request that you add to the list of endangered species the parrot from the island Dominica *Amazona arausiaca*. The common name for this species is either Rednecked Amazon, or Arausiaca.

I am a private individual not associated with any organization directly.

I enclose a copy of a report, "Endangered Amazons of Dominica; The Imperial and Arausiaca Parrots", I made to the International Council for Bird Preservation on my expedition to Dominica in 1975. I believe this report adequate explains both why I am an "interested party" and the justification for your adding this species to the endangered species list. Further research on Dominica in 1976 strengthened my concern for the species. The species is already considered endangered by the IUCN.

Thank you.

Sincerely,

HOLLY A. J. NICHOLS.
10611 MT. BORACHO
San Antonio, Tex., October 12, 1976.

DIRECTOR,
Fish & Wildlife Service,
United States Department of the Interior,
Washington, D.C. 20240

DEAR SIR: I request a permit allowing importation of two individuals of an endangered species, *Amazona imperialis*, Imperial Parrot, from the island Dominica.

This request is part of a project I have organized with the cooperation of Jersey Wildlife Preservation Trust and Save Animals From Extinction/Wildlife Preservation Trust. Our long term goal is to establish captive breeding populations of the four Lesser Antillean Amazons, *A. guildingii* of St. Vincent, *A. versicolor* of St. Lucia, and *A. imperialis* and *A. arausiaca* of Dominica in Europe at Jersey Wildlife Preservation Trust and in the United States under my supervision.

The two Imperial Parrots will be taken from the wild as nestlings during April or May on Dominica, they will be temporarily moved to St. Vincent in June, and I am requesting a permit to return with them in July 1977. The Dominica Government has given me permission to take from the wild and export from Dominica a total of six *A. imperialis* and six *A. arausiaca*. Of these twelve I have thus far only been able to obtain two *A. arausicas* which I returned to San Antonio with in July 1976. I am much more optimistic about the possibility of obtaining these nestlings during the 1977 season than I ever have been in the past. At the conclusion of my 1977 expedition on Dominica all first year parrots of both species will be taken to St. Vincent where they will be housed until they can be safely imported in groups of two into the U.S. I, Dr. Kurt Alex, and perhaps a few other associates will each be requesting a permit to import two in 1977.

The sexes of the birds will not be known at the time of importation in 1977.

Of the four above mentioned species only *A. guildingii* has been successfully bred in captivity. Captive bred *A. imperialis* are thus not available for the establishment of the planned project. Of the handful (I know of two) of pet *A. imperialis* on Dominica, I know of none available or suitable for a breeding project. As I have stated to you in my many previous applications (none of which have been used for this species), I believe taking feathered nestlings from the wild has minimal effect on the wild population.

These parrots will be maintained by myself and my husband, Thomas Duncan Nichols, at the above address. Our pens for these birds are five feet wide, 28 feet long and approximately 8 feet high. The floor of this area is concrete below the feeding area, dirt below part of the flight, and heavy trap rock below the main perching areas. The wire walls are ½ inch hardware cloth. A safety area with a four feet high door decreases chances of accidental escape.

As previously mentioned none of the four Lesser Antillean Amazon species has ever been bred and raised in captivity except for one *A. guildingii* chick in 1972 at the Houston Zoo. I was responsible for that breeding pair and their offspring.

I am the studbook keeper for *A. imperialis* for the International Zoo Yearbook.

I will transport these two birds back to San Antonio in the same manner I have transported endangered parrots for the last three years. They will have their own airline seat next to me in the cabin in a wooden cage. We will go through U.S. Customs, and USPHS and USDA inspection in San Juan and meet your representatives in Miami. I assume your representatives are still at 305–526–2916.

During the last five years the only bird to have died under my care in the order Psittaciformes was a male *Triclaria malachitacea* of an acute (apparently viral) pneumonia. I no longer keep this delicate and unique species—there are none in the U.S.A. I have never had an Amazon parrot which died. I am now keeping eleven endangered Amazon parrots.

As the enclosed paper, *Endangered Amazons of Dominica: The Imperial and Arausiaca Parrots*, indicates there are approximately 150 Imperials in the wild. We judge the species to be an appropriate candidate for an attempted captive breeding program because of (1) Apparent rapid decrease in the wild population, (2) Pressures on the wild population which will be very difficult to alter in the foreseeable future, (3) The fact that relatives of this species have bred in captivity.

Appropriate export documents will accompany the birds when they are exported from Dominica, as noted in the enclosed copy of a note from the Dominican Permanent Secretary of Agriculture and Natural Resources.

Once I judge the population of this species under my care to be stable, offspring of this species will either be placed with appropriate zoos or private breeders.

In the case I am not able to care for these birds or in case of my death they will be the responsibility of my husband, Thomas Duncan Nichols. In case both of us are unable to care for these birds the Scientific Advisory Committee of Wildlife Preservation Trust will decide to whom the birds are donated.

In case of a death of a bird in this project the specimen will be donated to LSU Museum of Zoology.

In case there is any chance that *Amazona arausiaca* will be on your endangered species list by July 1977 please consider this application for the transportation of either two *A. imperialis* or two *A. arausiaca*. All the statements in this letter for *A. imperialis* hold true for *A. arausiaca*.

Those who are familiar with our work include:

(1) Dr. Thomas E. Lovejoy, Project Officer, World Wildlife Fund, 1319 Eighteenth St. N.W., Washington D.C. 20036.

(2) Dr. & Mrs. Noel Snyder, Patuxent Wildlife Research Center, USDI, Laurel, Maryland 20810.

Dr. Cameron B. Kepler, Patuxent Wildlife Research Center.

(3) Dr. Warren B. King, Ornithology Department, Smithsonian Institution, Washington, D.C. 20560.

Thank you.

Sincerely,

HOLLY J. NICHOLS.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-506-07; please refer to this number when submitting comments. All relevant comments received within on or before March 7, 1977.

Dated: February 1, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-3637 Filed 2-3-77;8:45 am]

WILLIAM E. RAKES

Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: William E. Rakes, Norris School District 160, Firth, Nebraska 68358.

OMB NO. 42-R1470

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only)

☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.

For use in my seventh grade life science class. The incubation and hatching of the eggs will be used as a demonstration of non-native Nebraska animals. Once the alligators are hatched they will be given to either the Children's Zoo in Lincoln or the Henry Doorly Zoo in Omaha.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)

William Elliott Rakes
Norris School District #160
Firth, Nebraska 68358

tele. 791-5301

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

	HEIGHT	WEIGHT
☒ MR. ☐ MRS. ☐ MISS ☐ MS.	5' 6"	155
DATE OF BIRTH: August 3, 1948	COLOR HAIR: Brown	COLOR EYES: Brown
PHONE NUMBER WHERE EMPLOYED: 791-5301	SOCIAL SECURITY NUMBER: 505-60-1644	

OCCUPATION: Junior High Life Science Teacher

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:

EXPLAIN TYPE OF BUSINESS, AGENCY, OR INSTITUTION

6. ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

Norris School District #160
Firth, Nebraska 68358

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.

Superintendent Dennis J. Nocal

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

8. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED

The incubation and hatching will be conducted in my classroom.

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☐ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

$

10. DESIRED EFFECTIVE DATE: Feb. 15, 1977

11. DURATION NEEDED: Two months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED. Attachments provided from 50 CFR 13.13 section 17.22

(a) 1,2,4,5,6i,6ii,6iv,8i,8ii,8iii,and 8iv.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) William Elliott Rakes

DATE: December 2, 1976

3-200
10/76

GPO 835-042

NORRIS SCHOOL DISTRICT NO. 160

ARD OF EDUCATION
m Liesveld, President
rold Paschold, Vice President
nald TenHulzen, Secretary
n Egger, Treasurer
mer Schwaninger
rl Boseiger

ADMINISTRATIVE OFFICE
Four miles south of Hickman
FIRTH, NEBRASKA 68358

ADMINISTRATION
Dennis Nosal, Superintendent
Rex Pigg, Senior High Principal
Richard Eisenhauer, Elementary Supervisor

following items under section 17.22 are the only ones I feel apply to my situation.

Application requirements:

(1) American alligator-alligator mississippiensis (common and scientific names) I need two fertilized eggs of the above species to hatch out in class.

(2) Hopefully the fertilized eggs will hatch out in captivity.

(4) The eggs will be hatched out at Norris School District #160 at Firth, Nebraska.

(5) Norris School District #160 is a consolidated school district made up of seven small communities located 18 miles southeast of Lincoln, Nebraska. The eggs will be hatched out in my life science room in the Junior-Senior High School building. I have adequate incubators, housing space, and ventilation for hatching purposes. Primarily the area is a rural farming community with a total enrollment of 1200 in the district.

(6) (i) As mentioned above the hatching will take place in my classroom which is adequately heated. A picture of my room is enclosed.

(ii) I have never had any first hand experience in the hatching or raising of alligators. I have been trained in biological techniques and have successfully incubated and raised mice, gerbils, quail, pheasants, frogs, turtles, and guinea pigs in my classroom.

(iv) The traveling containers will depend upon who I purchase the fertilized eggs from. I will hatch out the eggs in a standard incubator. Once hatched I will keep the newborn in a wire mesh-covered horse tank.

(8) (i) The only activities needed to be covered by the permit will be to hatch out two fertilized eggs in my classroom. The main reason I chose alligator eggs is because they are not native to Nebraska and the students have never actually seen a live alligator. My students have been studying about alligators in class and are quite concerned about their numbers and their possibility of becoming extinct. I would try to the best of my ability to maintain them. My students have agreed to give them to the Children's Zoo in Lincoln, Nebraska after we have kept them for a short time in the classroom for observation. The Children's Zoo will become their permanent home.

(ii) Place the eggs in an incubator for the duration of incubation. Once hatched they will remain in the classroom for a short time then will be given to the zoo.

(iii) The main reason we chose alligators was because of our unfamiliarity with their hatching, growth rates, and feeding habits. We would like to compare the alligators to other animals we have hatched out in class.

(iv) Disposition will be to the Children's Zoo in Lincoln, Nebraska.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-470-07; please refer to this number when submitting comments. All relevant comments received on or before March 7, 1977, will be considered.

Dated: February 1, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-3638 Filed 2-3-77;8:45 am]

CHARLES SIVELLE

Endangered Species Permit; Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Charles Sivelle, 41 Westcliff Drive, Dix Hills, Long Island, New York 11746.

OMB NO. 42-R1099

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
[X] IMPORT OR EXPORT LICENSE [ ] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED: Authorization to import 25 unsexed '76 hatch Palawan Peacock (polyplectron emphanus) pheasants for colony propagation to enhance survival of species

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Charles Sivelle
41 Westcliff Drive
Dix Hills, N.Y. 11746
516-423-6146

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[X] MR. [ ] MRS. [ ] MISS [ ] MS.
HEIGHT: 5'11" WEIGHT: 190 lbs
DATE OF BIRTH: 9-24-76
COLOR HAIR: Brown COLOR EYES: Blue
PHONE NUMBER WHERE EMPLOYED: 516-423-6146
SOCIAL SECURITY NUMBER: 125-97-0277
OCCUPATION: Manufacturer

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OF KIND OF BUSINESS, AGENCY, OR INSTITUTION: n.a.

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT: None

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.: n.a.

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED: n.a.

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED: 41 Westcliff Drive, Dix Hills, N.Y. 11746

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? [ ] YES [X] NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [ ] YES [X] NO
(If yes, list jurisdictions and type of documents)
N.Y. State importation permit to be obtained on issuance of this permit

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF: $ n.a.

10. DESIRED EFFECTIVE DATE: date of issuance

11. DURATION NEEDED: 6 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
50 C.F.R. Part 17.22

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink): Charles Sivelle
DATE: Nov. 12, 1976

ephone (516) HA 3-6146

CHARLES SIVELLE
41 Westcliff Drive
Dix Hills, Long Island, N. Y. 11746

Nov. 12, 1976

Director (FWS/LE)
U.S. Fish and Wildlife Service
U.S. Dept. of the Interior
P.O. Box 19183
Washington, D.C.

Dear Sir:

The undersigned requests an endangered species import license to purchase and import 25 unsexed '76 hatch Palawan Peacock (polyplectron emphanus) pheasants from Dr. K.C. Searle, H.K. Botanical Gardens, 235 H.K. Bank Building, Hong Kong.

2) Pheasants purchased and transported by air shipment from Hong Kong.

3) Purpose of permit is to provide a colony propagation center for the specie. These birds are to be bred together with an unrelated stock possessed by the undersigned. As the specie is inbred and lacking in new blood, it is hoped that propitious selection of mates will occur and that superior young will be developed by eventual selective breeding thus creating a more viable stock to enhance the survival of the specie.

4) The applicant possesses 130 aviaries varying in size from 18' L x 10' W x 7' H to 100' L x 40' x 18' H, all of which are landscaped and possess appropriate heated shelters varying in size from 10' L x 14' W x 9' H. All aviaries are predator proof employing heavy gauge wire, redwood, two inch galvanized pipe, fiberglass roofing and 3/4" waterproof plywood. Four acres of land are used at present with an additional ten acres available.

5 & 6) Wildlife in question were captive raised by Dr. Searle and will not affect the survival of any wildlife in its native habitat.

7) i) These birds will be kept in a completely heated enclosed area approximately 60' long by 30 feet wide heavily landscaped and completely predator proof. Print attached.

ii) Applicant has been propagating pheasants for twenty years and is internationally recognized. He has already raised hundreds of the pheasants referred to as endangered and has been responsible

Telephone (516) HA 3-6146

CHARLES SIVELLE
41 Westcliff Drive
Dix Hills, Long Island, N. Y. 11746

for establishing captive populations in whole or part of the following pheasants in the United States today.

1) Bornean Argus
2) Bornean Crested Fireback
3) Bornean Crestless Fireback
4) Koklass
5) Humes Bar-tail
6) Mikado
7) Brown-Eared
8) White-Eared
9) Ijima Copper
10) Cabot Tragopan
11) Bronze-tail peacock

His aviaries contain thirty-two different species of pheasants many of which are the only species of their kind in the United States. The collection is considered the most complete in the world.

The applicant is an active member of many wildlife organizations including 1) American Pheasant & Waterfowl Society - Director
2) World Pheasant Association - Vice President
3) N.Y. Zoological Society - Field Associate
4) Avicultural Society of Long Island - Exec. Secretary
5) Game Bird Breeders Cooperative Federation - Director

The applicant has his own hospital where fecal analysis and other simple post mortems are made of all birds on premises when required which includes isolation areas. This is under the supervision of a visiting licensed veterinarian.

iii) The applicant has participated in many pheasant propagation programs involving Endangered Species of pheasants thruout the world and also has assisted in the establishment of stud books for several species including the White-eared pheasant and will participate in a cooperative breeding program and maintain and contribute data to a studbook.

iv) Containers for this shipment will be made to accomodate the bird size. They will vary in size from 12" to 14" in width to 18" in height and 1i" to 24" in length. 2" wood is used for frame to which $\frac{1}{4}$" hard board (masonite) is firmly nailed. Air holes are drilled on all four sides as per photo. A foam lined frame is inserted on the top of the shipping container to prevent scalping of the birds head and a final hard board is firmly nailed or screwed over this.

A specially designed water container which provides for minimum spillage is wired to inside wood frame of container. Food is supplied in a wood container also wired to opposite side of wood frame of container.

Applicant has shipped hundreds of pheasants in this manner thru out the world with negligible loss.

elephone (516) HA 3-6146

CHARLES SIVELLE
41 Westcliff Drive
Dix Hills, Long Island, N. Y. 11746

- 3 -

v) Among the hundreds of Endangered Species the applicant possesses and has bred only one (1) adult White-eared pheasant has died and such was reported to Fish and Wildlife Service.

8) Upon termination of my breeding program, those birds covered by the permit as well as those which are not will be distributed among qualified breeders of those species concerned and/or placed in the trust of the World Pheasant Association.

I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of the Federal Regulations and the other applicable parts in Subchapter B of Chapter I, Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

Sincerely,

Charles Sivelle
Charles Sivelle

CS:jb
enc.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-488-07; please refer to this number when submitting comments. All relevant comments received on or before March 7, 1977, will be considered.

Dated: February 1, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc.77-3639 Filed 2-3-77;8:45 am]

RED-COCKADED WOODPECKERS

Emergency Exemption; Issuance

On January 25, 1977, a letter waiving the 30-day public comment period was issued to the National Fish and Wildlife Laboratory, U.S. Fish and Wildlife Service, authorizing emergency actions to enhance the survival of red-cockaded woodpeckers (*Dendrocopos borealis*). This waiver was granted to allow the capture, banding, and radio tracking of up to 100 red-cockaded woodpeckers within the proposed phosphate mining area of the Osceola National Forest. There is impending danger of potential losses should a mining permit be issued in this area.

It was determined by the U.S. Fish and Wildlife Service that an emergency does in fact exist for the entire population of red-cockaded woodpeckers in the proposed phosphate mining area of the Osceola National Forest and that the lives and habitat of these woodpeckers are threatened, and no reasonable alternative is available to the applicant.

A copy of the application, permit, and waiver are herewith presented. This emergency waiver is provided in accordance with the Endangered Species Act of 1973, as amended by Public Law 94-359 (90 Stat. 911).

Dated: February 1, 1977.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE
FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED:
To capture, band and radio-track Red-cockaded Woodpeckers as part of our Interior-directed study of endangered species prior to issuance of permits for phosphate strip mining within the Osceola National Forest, Florida.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
U.S. Fish and Wildlife Service
National Fish and Wildlife Laboratory
Gainesville Field Station
412 N.E. 16th Ave., Room 250
Gainesville, Fla. 32601 904-372-2571

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☐ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT | WEIGHT
DATE OF BIRTH | COLOR HAIR | COLOR EYES
PHONE NUMBER WHERE EMPLOYED | SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Branch of U.S. Fish & Wildlife Service carrying out scientific studies on N. American Wildlife. Project permit falls under a study of the Endangered Plants & Animals of Osceola Nat. Forest and Phosphate Mining.
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC.
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
Dr. Howard W. Campbell, Chief, G'ville Field Stat. NFWL (904) 372-2571

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Osceola National Forest in Columbia and Baker Counties, Florida

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☒ YES ☐ NO
(If yes, list license or permit number(s))

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☒ YES ☐ NO
(If yes, list jurisdictions and type of document(s))
Fla. State Scientific Collectors Permit #2

9. CERTIFIED CHECK OR MONEY ORDER (if applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$ N/A

10. DESIRED EFFECTIVE DATE
15 Jan. 1977

11. DURATION NEEDED
Six months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
See Attachments

CERTIFICATION
I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Howard W. Campbell
DATE 1/11/77

3-200 (8-74)

Question 7—Permits Held: PRT—9-25-C, Marine Mammal. PRT—8-45-C, To take and possess dead manatees. PRT—9-5-C, To take and possess dead manatees. PRT—8-33-C, Endangered Species. No. 20781 R. W. Repenning—Master Permit, Banding Office.

Question 12—

The National Fish and Wildlife Laboratory, a branch of the U.S. Fish and Wildlife Service, has been given the job of determining what effects proposed phosphate mining in Osceola National Forest will have on endangered plants and animals dependent on the forest.

The Red-cockaded Woodpecker, *Picoides borealis* (formerly *Dendrocopus borealis*) is the only known endangered bird species nesting in the forest. The U.S. Forest Service estimates approximately 50 colonies of Red-cockaded Woodpeckers live in the forest. To date we have located 32 active colonies; of these 26 colonies are in or near areas of proposed phosphate mining.

We consider the studies outlined below important in our study of this population and habitat requirements of this species in general.

A. Capture and band with Fish and Wildlife Service aluminum bands: Approximately 100 birds.

Objectives:
1. To obtain an accurate population survey.
2. To obtain sex-ratio data on birds in individual clans.
3. To have each bird individually identified for future studies.
4. To determine movements of birds within the forest.

Methods:
Birds will be caught as they leave their cavities at dawn in a mist net bag attached to a bamboo pole. Birds will then be weighed and banded. The other birds in the colony will then be lured back by use of tape recorded calls and the banded bird will be released among other clan members to minimize any adverse affects capture may have on the bird.

Time: Jan. 15–Feb. 30, 1977, May 30–July 15, 1977.

No banding will take place during the nesting season.

B. Six clans (25 birds) will be studied intensively within the mining lease areas. The area occupied by these clans will be destroyed if the leases are granted.

Reasons for Study:
1. They are directly threatened.
2. Any knowledge gained in this study will benefit the species as a whole.
3. These woodpeckers, if the mining leases are granted, could be used in recolonization of areas where Red-cockaded Woodpeckers have recently been extripated. (ex. Everglades National Park and Morningside Park, Gainesville, Fla.)

Objectives:
1. To determine home range size.
2. To determine habitat utilization.
3. To determine the role of each clan member in rearing young.
4. To determine success of the clan.
5. To determine individual behavior of clan members.

Methods:
1. All birds will be banded, weighed, measured, sexed, and aged by plumage whenever possible.
2. All birds will be color banded with a combination of colored leg bands for individual field identification.
3. All birds will be color coded with colored chick dyes applied to their back, breast, wings, and/or tail. The heads will not be marked.
4. Birds will be captured as described above in Section A.
5. Home Range Size Following Color Marked Birds. This method has been used by a number of observers (Crosby, Baker and Beckett), obtaining a wide variety of results. In attempts to follow unmarked birds, we have had the feeling of chasing rather than following the birds, therefore, a second method, radio-tracking, will be used, I hope to compare these two methods.

Radio-tracking has successfully been used to determine the home range size of Red-cockaded Woodpeckers by Nesbit, Gilbert, and Barbour. We will use identical equipment and methods as Nesbit, et al., used (unpubl. paper, copy attached). They are a transmitter package weighing 3.6 grams and measuring 30 x 25 mm with a wire antenna 18 mm in length, powered by a hearing aid battery and attached with eyelash cement.

We will radio-track one bird, in as many of the six clans as time allows, for at least three full days between January 15, 1977 and February 30, 1977. On maps of the area we will plot clan movements and determine home range size.

Foraging habitat type will also be determined during radio-tracking.

During the nesting season nests will be watched to determine the role each member of the clan plays in rearing the young. The nest tree will be examined to determine when and how many eggs are laid, when the young hatch, and the number of young fledged.

DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE, NATIONAL FISH AND WILDLIFE LABORATORY, GAINESVILLE STATION, *Gainesville, Fla., December 29, 1976.*

MR. DONALD DONAHUE,
Chief, Permits Section, Office of Wildlife Permits, U.S. Fish and Wildlife Service, Washington, D.C.

DEAR MR. DONAHUE: This responds to my phone conversation of December 23, 1976 with Mr. Bolwahnn concerning additional information needed for my permit request for transmitter studies of the Red-cockaded woodpecker in the Osceola National Forest, Florida. I hope you will find these data supportive of my request for emergency authority to initiate the study before the full normal permit review process is completed.

Transmitter characteristics: Manufacturer—A.V.M. Inc., Power—1.35 volt mercury hearing-aid batteries, Antenna—18 cm whip, Total weight—3.6 gr., Dimensions—30 mm x 25 mm, plus antenna, Attachment—glued to woodpecker's back between scapulars with cosmetic eyelash cement.

During the Cross Florida Barge Canal Wildlife Restudy (Fla. Game and Fresh Water Fish Comm., 1976) four woodpeckers were instrumented. The GFFC report on equipment performance and bird reaction to the transmitters is quoted: "During this study four birds were instrumented with miniature transmitters and followed 12 full days. Behavior of an instrumented bird usually normalized after about two hours. The behavior of one individual, however, never normalized. This individual, though able to feed and move with other members of the clan, never managed sustained flight. The second day after instrumentation the bird was recaptured and the transmitter removed. Disfunction was apparently caused by a heavier than normal transmitter package and matted feathers resulting from excess eyelash cement. After transmitter removal the bird appeared normal on all subsequent observations. Instrumented birds exhibited no difficulty entering or exiting holes and behavior was apparently normal once birds had entered the roost cavity.

* * * Maximum range of the transmitter was found to be approximately one kilometer. We encountered no difficulty in maintaining radio contact with an instrumented bird throughout the day * * * Battery life was rated at 26 days, however, we found 5 to 14 days was the maximum needed to meet our objectives. Transmitters were either removed or fell off after this time."

Alternate Options for Impacted Populations of Red-Cockaded Woodpeckers: The proposed phosphate mining will affect a significant percentage of the woodpeckers residing in the Osceola National Forest, as detailed in the permit request. The woodpeckers are dependent on mature pine forests with a proportion of old, diseased trees. The area to be mined will be clearcut and strip-mined, thus totally eliminating woodpecker habitat. If reclamation is properly programed and successful, it would still take 40–50, or more, years before suitable forests for red-cockaded woodpeckers could reestablish in the mined areas.

The clans currently residing in the area have no recognizable viable options for survival if mining is initiated. All suitable habitat in the area is occupied by red-cockaded woodpeckers and there is no valid biological reason to suspect that these adjacent habitats could support higher population levels. The oft-repeated platitude that individual animals displaced by environmental disruption will relocate elsewhere is contrary to both ecological theory and data except in exceptional cases where adjacent habitats are occupied by the species at levels below the carrying capacity of the habitat for that species. There is no reason to suspect that this is the case in the Osceola National Forest, nor in most cases where this argument is advanced to counter environmental concerns for proposed habitat destruction.

This very issue, of course, is a critical one in evaluating the potential impact of proposed habitat alteration and our proposed tracking and banding study would potentially be of value in developing data on this matter if follow-up studies could be conducted following any authorized stripmining in the area. It appears clear to us, however, that woodpeckers currently residing in the proposed mining areas will themselves perish or displace adjacent birds which will in turn perish if mining commenses. The option of translocating such displaced birds is untested, but is the only option currently available if leases to mine are granted.

Timing of Mining Operations; Status of Legal Constraints: In 1964, Kerr-McGee Corporation applied for five prospecting permits to explore for phosphate deposits within the Osceola National Forest, Florida. In January of 1969 and again in August of 1970, Kerr-McGee applied for preference right leases to mine phosphate deposits discovered on the lands under the prospecting permits.

A final environment impact statement was issued by the Bureau of Land Management in June of 1974.

On October 28, 1975, Secretary of the Interior, Thomas S. Kleppe, directed that a two year study be conducted to provide additional information on potential pollution to local water supplies and damage to endangered species before making his decision on the now-pending preference right lease applications for phosphate mining in the Osceola National Forest. On November 12, 1975, the Under Secretary of Interior requested the U.S. Fish and Wildlife Service to conduct the endangered species study. In March of 1976, the FWS Office of Biological Services through the Division of Cooperative Research directed the National Fish and Wildlife Laboratory to conduct the endangered species study. In June of 1976 the Gainesville Field Station of the National Fish and Wildlife Laboratory began preliminary planning and temporary hiring for the study.

On September 29, 1976, United States District Court Judge B. D. Parker ordered the Department of Interior to grant the mining leases immediately.

The Department of Justice appealed the decision on technical grounds and was granted thirty days to obtain additional information on the true value of the phosphate reserves.

The final outcome of these legal proceedings is still undecided. At this point in time the Fish and Wildlife Service is continuing its study of endangered species as directed by the Secretary of the Interior with a projected completion date of November, 1977. At this writing, thus, the initiation of mining activities is restrained solely by the evaluation of the area which should be completed by December 1976 or January 1977. Prediction of future actions in the Osceola National Forest is not possible at this time on the basis of present knowledge. I thus argue that in order to maximize our chances to conserve at least 120 red-cockaded woodpeckers currently utilizing the critical areas

of the forest we must proceed immediately with the requested study.

HOWARD W. CAMPBELL,
Chief, Gainesville Field Station, National Fish and Wildlife Laboratory.

DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE, NATIONAL FISH AND WILDLIFE LABORATORY, GAINESVILLE STATION, *Gainesville, Fla., December 14, 1976.*

Mr. DONALD DONAHUE,
Chief, Permits Section, Office of Wildlife Permits, U.S. Fish and Wildlife Service, Washington, D.C.

DEAR MR. DONAHUE: The enclosed permit application is submitted for your consideration under the emergency provisions for Endangered Species permits.

We feel this permit request justifies this consideration in that it represents the only available opportunity to obtain the necessary biological information for considered attempts to salvage, via transplant to unoccupied habitats, populations of Red-cockaded woodpeckers currently residing in areas which are scheduled for stripmining for phosphate in the Osceola National Forest, Florida. The proposed mining leases in this area will possibly adversely effect at least 26 colonies of this endangered species and biological data of pertinence to the potential need to translocate these colonies are not available.

Earlier submission of this request was not feasible due to, (1) lack of adequate knowledge of colony distribution in relation to mining plans and (2) lack of radio-tagging equipment. Access to the necessary technology has recently come available and colony distribution justifies the need. The proximity of the breeding season for the birds requires that marking and tagging efforts be initiated before mid-January so that the pre-mating and breeding activities will not be disturbed.

If necessary, please consider this request as two components, a radio-tracking effort and a leg-banding/dye marking effort. While maximum benefits to the species will accrue through the combined program as outlined, any component will be of significant value.

If approved, the following individuals will be involved with the research: myself, Robert W. Repenning, Frank A. Brandt, Steven P. Christman.

Thank you very much for your prompt attention to this request. If additional information is required for your review please call me at (FTS) 946-7239.

Sincerely,

HOWARD W. CAMPBELL,
Gainesville Field Station, National Fish and Wildlife Laboratory.

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

3-201
12/75

FEDERAL FISH AND WILDLIFE PERMIT

1. PERMITTEE

U.S. Fish and Wildlife Service
National Fish and Wildlife Laboratory
2820 East University Avenue
Gainesville Field Station
Gainesville, Florida 32601

2. AUTHORITY - STATUTES: 16 USC 1539(a)
REGULATIONS (Attached): 50 CFR 17.22
3. NUMBER: PRT 2-545
4. RENEWABLE: ☐ YES ☒ NO
5. MAY COPY: ☒ YES ☐ NO
6. EFFECTIVE: JAN 21 1977
7. EXPIRES: 12/31/77

8. NAME AND TITLE OF PRINCIPAL OFFICER (If #1 is a business): Howard W. Campbell, Chief

9. TYPE OF PERMIT: Endangered Species - Emergency Exception

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED: Within the proposed phosphate mining area of the Osceola National Forest

11. CONDITIONS AND AUTHORIZATIONS:

A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.

B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.

C. VALID FOR USE BY PERMITTEE NAMED ABOVE and any person who is under the direct control of, or who is employed by or under contract to, the permittee.

D. Authorized to capture, band and radio-track up to 100 red-cockaded woodpeckers, (Dendrocopos borealis) as specified in Block 10.

E. Activities conducted under authority of this permit must be for official business only.

F. Acceptance of this permit authorizes inspection per 50 CFR 13.47.

G. Submit reports by January 31st and June 30th of each year, on results to the Red-cockaded Woodpecker Recovery Team, Dr. Jerome A. Jackson, Mississippi State University, Department of Zoology, P.O. Drawer Z, Mississippi State, Miss. 39762.

☒ ADDITIONAL CONDITIONS AND AUTHORIZATIONS ON REVERSE ALSO APPLY

12. REPORTING REQUIREMENTS: A report of the activities conducted under authority of this permit must be submitted to, Department of the Interior, U.S. Fish & Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240, by January 31st of the following year.

ISSUED BY: /S/ DONALD G. DONAHOO — TITLE: Chief, Permit Branch — DATE: JAN 21 1977

DISTRIBUTION

H. Permittee must have a copy of this permit in his possession while conducting the activities authorized.

I. On completion of the permitted activity, this permit shall be returned to, Dept. of the Interior, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240, within 10 days.

J. The loss, death, or destruction of the red-cockaded woodpecker shall be reported within 24 hours to the Atlanta USFWS office (404-991-4761) and in writing to the Dept.

of the Interior, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240, within 10 days.

K. May salvage and care for any red-cockaded woodpecker found injured or dead and any injured or killed as a result of the permitted activity. Dead specimens shall be preserved for scientific research.

L. Maintain records as required in 50 CFR 13.46.

DR. HOWARD W. CAMPBELL,
National Fish and Wildlife Laboratory, U.S. Fish and Wildlife Service, Gainesville Field Station, 2820 East University Avenue, Gainesville, Florida.

January 25, 1977.

DEAR DR. CAMPBELL: The purpose of this letter is to waive the required 30 day public comment period following publication of an endangered species permit application, as specified in the Endangered Species Act of 1973, as amended. This waiver is granted on the basis that the lives of the red-cockaded woodpeckers are Theatened and no reasonable alternative is available to you, the applicant.

It has been determined by the Service that an emergency does in fact exist for the entire population of red-cockaded woodpeckers (*Dendrocopos borealis*) in the proposed phosphate mining area of the Osceola National Forest, and that the lives and habitat of these woodpeckers are Threatened. Potential losses, should a mining permit be issued, must be properly documented to demonstrate the hazard or lack thereof to the species in the mining area. Also, as much biological information as possible should be gathered in the event a mining permit is issued so that efforts to salvage the effected population of red-cockaded woodpeckers and relocate them to unoccupied habitats will have a greater possibility of success.

The National Fish and Wildlife Laboratory is authorized, in accordance with Permit 2-545-07, to capture, ban and radio track up to 100 red-cockaded woodpeckers, within the proposed phosphate mining area of the Osceola National Forest.

This exemption is granted, conditional to the provisions of Endangered Species Permit, PRT 2-545-07, issued January 21, 1977.

Sincerely yours,

GEORGE W. MILLAS,
Acting Director.

[FR Doc.77-3629 Filed 2-3-77;8:45 am]

Geological Survey

CONFERENCE ON USE AND NEEDS FOR GEOMAGNETIC DATA

Notice of Conference

A conference on the use and needs of geomagnetic data will be held at 9:00 a.m. to 4:00 p.m. on Wednesday, February 23, 1977, in the Director's Conference Room at the headquarters of the Geological Survey in Reston, Virginia. The following agencies have been invited to participate: Federal Aviation Administration, NASA/Goddard Space Flight Center, National Oceanic and Atmospheric Administration, and U.S. Coast Guard.

The purpose of the conference will be to review the use and needs of geomagnetic data collected by the Geological Survey with other Government agencies and with members of the public.

In 1973, the responsibility for operating the United States Geomagnetic Observation Program was transferred from the National Oceanic and Atmospheric Admnistration to the Geological Survey. This program includes the Standard Geomagnetic Observatory Program and 5-year repeat magnetic observations at approximately 100 locations throughout the United States. The program supports magnetic charting, surveying and mapping, navigation, and solid earth and space research.

Representatives from participating Government agencies will present brief reviews of their use and need for geomagnetic data.

Members of the public are invited to attend this conference and to present brief reviews of their use and need for geomagnetic data.

Members of the public wishing to attend this conference or to make presentations should contact Dr. Leroy Alldredge, U.S. Geological Survey, Denver Federal Center, Denver, Colorado 80225 (telephone (303) 234-5164), so that appropriate arrangements can be made within constraints of time and available equipment.

V. E. MCKELVEY,
Director, U.S. Geological Survey.

[FR Doc.77-3485 Filed 2-3-77;8:45 am]

[Docket No. M 77-80]

B.B. & N. COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), B.B. & N. Coal Co., Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Mine, located in Letcher County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710-1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in paragraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner feels that by having canopies installed on its equipment it is creating a hazard to the operators.

2. Petitioner's equipment consists of the following: one (1) Long-Airdox LRB roof bolting machine, height 26 inches; one (1) Kersey 18-S scoop, height 26 inches; and one (1) Kersey 16 scoop, height 26 inches.

3. The No. 1 Mine is in the Hazard No. 4 Seam which ranges from 59 inches in height. In this seam Petitioner is daily running into rolling top. Petitioner also has rolls in the floor which contribute to the difficulty of using canopies. By installing canopies on the equipment, Petitioner is limiting the vision of the operators of the equipment, creating a hazard to them as well as to other employees in the mine. The Kentucky Department of Mines and Minerals has asked Petitioner to remove these canopies from its equipment. Petitioner feels that since the equipment operator's vision is limited and because of the position required in order to be seated in the equipment, the installation of canopies could be a contributing factor to accidents that may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 7, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 28, 1977.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

[FR Doc.77-3724 Filed 2-3-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-86]

BETTY B. COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Betty B. Coal Company has filed a petition to modify the application of 30 CFR 77.213 to its No. 3 Mine, located in Dickenson County, Virginia.

30 CFR 77.213 provides:

When it is necessary for a tunnel to be closed at one end, an escapeway not less than 30 inches in diameter (or of the equivalent, if the escapeway does not have a circular cross section) shall be installed which extends from the closed end of the tunnel to a safe location on the surface; and, if the escapeway is inclined more than 30 degrees from the horizontal it shall be equipped with a ladder which runs the full length of the inclined portion of the escapeway.

The substance of Petitioner's statement is as follows:

1. Petitioner's draw-off tunnel was constructed in August 1968. It is constructed of 12-inch concrete block for the walls. The top is constructed of 6-inch concrete with steel re-inforcing.

2. This draw-off tunnel is above a highway with a fence wall around the coal stock pile to control the coal stock pile. The base of the stock pile is on solid rock and has a limited area.

3. The draw-off tunnel is 8 feet wide, 6 feet high and 68 feet long. The belt line is 36 inches wide with a 1-foot clearance on the close side, a 3-foot clearance on the walk side and it is guarded with a guard rail.

4. No one is in the draw-off tunnel while the belt is in operation. Only one employee is ever in the tunnel; namely, to grease and clean the area.

5. To provide this escapeway would be almost impossible for Petitioner at this time.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 7, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at this address.

Dated: January 28, 1977.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

[FR Doc.77-3720 Filed 2-3-77;8:45 am]

[Docket No. M 77-50]

BIG TRACK COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Big Track Coal Co., Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its Mine No. 1, located in Haysi, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710-1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in paragraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having minnig heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches.

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. At this time Petitioner is operating one mining section with height ranging from 38 to 48 inches.

2. Petitioner uses a spinner loader and a royal roof bolter with height from 30 to 34 inches and Epling battery-powered tractors with a height of 30 inches.

3. Technology in the industry is not available to design and install canopies on existing equipment which will protect the operators in the conditions described above, insure vision and safe operability, and prevent the hazards described herein. Instead, attempts to do so have resulted in the following conditions:

(a) Crammed and awkward operator positions are created by the installation of cabs and this puts the operator in a strained position making it difficult for him to operate the controls safety and effectively and creates a mental strain on the operator due to the confinement, poor vision, etc.

(b) The installation of canopies creates a major hazard in that the operator's vision is obstructed and his vision is limited in that he cannot see the area in which he is traveling. This creates an additional hazard to any workman that might be traveling on foot. Due to poor vision the operator has a tendency to lean outside of the acnopy, this exposes him to the hazards of moving equipment, roof support and coal "ribs."

(c) Changes in conditions after installation of canopies, created by variations in seam height and undulations, cause equipment clearance to be inadequate and cause collisions with the top, shearing roof bolts, damaging cross beams, destroying equipment and roof support.

4. In an effort to solve problems of equipment modification, Petitioner knows of consultations with MESA Technical Support Center which it believes to be considering the type of problems described herein. Petitioner does not know of results from such consultations. In addition, Petitioner, as is common in the industry, is in repeated and frequent consultation with vendors on equipment problems, and knows that vendors with whom it has consulted are unable to solve the problems described herein.

5. Existence of the cab itself becomes a hazard in seams, or in portions of seams in which Petitioner operates as described above, because present equipment known to Petitioner limits the paths of escape to an operator faced with a roof or rib fall in a confined space.

6. Much of the equipment used in these mines was not manufactured or designed for the installation of canopies and Petitioner has been unable to construct or purchase suitable canopies without encountering all of the foregoing problems.

7. In petitioning for modification of the mandatory standard herein, Petitioner is forced to request relief from all time limits set forth in 30 CFR 75.1710-1 as applied to date because of the variations described above. If the standard becomes immediately applicable throughout the mine, Petitioner is forced to install canopies in the lower reaches of coal before other coal mine operators in like situations. If the different time limits are to apply to the separate mining sections or other areas in the mines, then Petitioner is faced with a vague situation as mining uncovers new conditions and Petitioner is left with little time to comply, or where compliance is impossible as described herein, his mine may be rendered worthless.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 7, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 28, 1977.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

[FR Doc.77-3725 Filed 2-3-77;8:45 am]

[Docket No. M77-84]

B & V COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c)

of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), B & V Coal Co., Inc., has filed a petition to modify the application of 30 CFR 75.1710 to its Federal Mine, located in Richlands, Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in paragraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a) be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met at follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine is 3 years old. Petitioner has owned and operated the mine for 3 years. The projected life of the mine is 2 years.

2. Petitioner has 10 employees represented by Bishop Union, Local 6025, District 29.

3. Petitioner's mine is located in the lower Horsepen coal seam which has a thickness of 48 inches.

4. The average height of the coal seam in locations where equipment, subject to cabs and canopy regulations, is being used is 30 inches to 6 feet. The average room size of each working section where the subject equipment is used is 18 feet wide. The conditions of the top and floor at each working section where the equipment is used are good.

5. There is one shift per day at Petitioner's mine and 200 tons are produced per day. Petitioner uses a conventional mining method.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 7, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 28, 1977.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

[FR Doc.77-3721 Filed 2-3-77;8:45 am]

[Docket No. M77-82]

MULLINS & SONS COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Mullins & Sons Coal Company has filed a petition modify the application of 30 CFR 75.1710 to its No. 1 Mine, located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representatives of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in paragraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches.

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more,

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner feels that by having canopies installed on its equipment it is creating a hazard to the operators.

2. Petitioner's equipment consists of: 1 Joy 16 RB cutting machine, 1 Acme roof bolter; 1 Galis roof bolter; 2 Wilcox roof bolters; 6 Elkhorn battery scoops and 1 Long Airdox face drill. This equipment ranges in height from 24 to 36 inches. This equipment was not designed to have canopies installed.

3. The mine is in the Pond Creek Seam which ranges from 42 to 48 inches in height. In this seam Petitioner is constantly running into ascending and descending grades resulting in dips in the coalbed. By installing canopies on the equipment, Petitioner is limiting the vision of the operators of the equipment, creating a hazard to them as well as to other employees in the mine. The canopies would by hitting roof bolts loosen them, adding an additional danger to anyone entering the mine.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 7, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearing Division, Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 28, 1977.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

[FR Doc.77-3722 Filed 2-3-77;8:45 am]

[Docket No. M 77-81]

COON MINING CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Coon Mining Company, Incorporated, has filed a petition to modify the application of 30 CFR 75.1710 to its No. 223 Mine, located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710–1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in paragraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner feels that by having canopies installed on its equipment it is creating a hazard to the operators.

2. Petitoner's haulage equipment consists of several scoops-type: Elkhorn and S & S machinery. The scoops range in height from 30 to 36 inches. These scoops were manufactured in the early 60's and were not designed to have canopies installed, as are the new scoops of today.

3. The mine is in the No. 4 seam which ranges from 48 to 60 inches in height. In this seam Petitioner is constantly running into ascending and descending grades, resulting in dips in the coalbed. By installing canopies on the equipment, Petitioner is limiting the vision of the operators of the equipment, creating a hazard to them, as well as to other employees in the mine.

4. Petitioner feels that since the equipment operator's vision is limited and because of the position required in order to be seated in the deck of the equipment, the installation of canopies could be a contributing factor in accidents that may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 7, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 28, 1977.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

[FR Doc.77-3723 Filed 2-3-77;8:45 am]

[Docket No. M 76-552]

LIBERTY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Liberty Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 3 Mine, located in Pike County, Kentucky.

30 CFR 75.1710 provides:

A authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710-1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in paragraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that by having canopies installed on its haulage equipment it is creating a hazard to the operators.

2. Petitioner's haulage equipment consists of several scoops, type: No. 75 S&S, and one roof bolting machine (Acme).

3. The No. 3 Mine is in the Winifred Seam ranging from 45 inches to 49 inches in height. In this seam Petitioner is constantly running into ascending and descending grades, resulting in dips in the coalbed. By installing canopies on the scoops Petitioner is limiting the vision of the operators of the equipment, creating a hazard to them as well as to other employes in the mine.

4. Petitioner feels that since the scoop operator's vision is limited and because of the position required in order to be seated in the deck of the scoops, the installation of canopies could be a contributing factor to accidents that may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 7, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: January 28, 1977.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

[FR Doc.77-3726 Filed 2-3-77;8:45 am]

[Docket No. M 77-83]

STAR COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Star Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 16 Mine, located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

A time schedule by which all mines must comply with § 75.1710 is specified by 30 CFR 75.1710-1(a) which provides:

(a) Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially

constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner operates a mine in the Number 1 Elkhorn seam of coal. The equipment used in the mine consists of one Long Airdox loading machine—188, one Paul's Repair Shop roof bolter, two Porter battery tractors, one S & S battery tractor, and one S & S scoop. The coal height varies from 39 to 49 inches. Petitioner has canopies for all its equipment, but due to the height of the coal seam Petitioner is unable to use them. The canopies cause the machines to hit the top and destroy the roof support and block vision which creates a dangerous condition. Petitioner's employees are refusing to operate this equipment, simply because they cannot work under them in a cramped position and they are afraid they will either get injured or will run over some of the other employees.

2. Therefore, due to the problems involved with the height of the coal seam and the equipment, Petitioner would like to be exempted from this section.

3. If Petitioner does not get some relief, it will have to close its mine and there are seven employees.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 7, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

JANUARY 28, 1977.

[FR Doc.77-3731 Filed 2-3-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[USITC SE-77-11A]

GOVERNMENT IN THE SUNSHINE

Additional Agenda Items; Bearing Steel; Photo Cubes

At its meeting of February 1, 1977, the United States International Trade Commission, acting on the authority of 19 U.S.C. 1335 and in conformity with proposed 19 CFR 201.38, voted to add the following items to its agenda for the meeting of February 10, 1977:

2. Bearing steel (Inv. TA-203-2—consideration of staff report; and

3. Photo cubes—consideration of complaint filed pursuant to section 337 of the Tariff Act of 1930, as amended (Docket No. 427).

Commissioner Minchew, Leonard, Moore, and Bedell voted by unanimous consent, that Commission business requires the change in subject matter by addition of these agenda items, affirmed that no earlier announcement of the addition to this agenda was possible, and directed the issuance of this notice at the earliest practicable time. (Commissioners Parker and Ablondi were not present for the vote.)

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.

By order of the Commission.

Issued: February 1, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-3641 Filed 2-3-77;8:45 am]

[USITC SE-77-5B]

GOVERNMENT IN THE SUNSHINE

Deletion of Agenda Items; Sugar

At its meeting of February 1, 1977, the United States International Trade Commission, acting on the authority of 19 U.S.C. 1335 and in conformity with proposed 19 C.F.R. 201.38, voted to delete the following items from its agenda for the meeting of February 1, 1977:

4. Vote on Sugar (Inv. TA-201-16)—after 3 p.m.; and

6. Items left over from previous agenda.

Commissioners Minchew, Parker, Leonard, Moore, and Bedell voted that Commission business requires the change in subject matter by deletion of these agenda items, affirmed that no earlier announcement of the deletion of these agenda items was possible, and directed the issuance of this notice at the earliest practicable time. (Commissioner Ablondi was not present for the vote.)

By order of the Commission.

Issued: February 1, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-3640 Filed 2-3-77;8:45 am]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON CONSUMER AND WHOLESALE PRICES

Meeting

The BRAC Committee on Consumer and Wholesale Prices will meet at 10 a.m., February 22, 1977, at the General Accounting Office Building, 441 G Street, NW., Room 4454, Washington, D.C. The agenda for the meeting is as follows:

1. Homeownership component of the CPI revision.
2. Status report of total CPI revision.
3. Other Business.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on (Area Code 202) 523-1559.

Signed at Washington, D.C., this 31st day of January 1977.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc.77-3653 Filed 2-3-77;8:45 am]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being

established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW, Washington, D.C. 20213.

Signed at Washington, D.C. this 31st day of January, 1977.

WILLIAM B. HEWITT,
Acting Assistant Secretary for Employment and Training.

Applications received during the week ending

Name of applicant	Location of enterprise	Principal product or activity
Magda Eriksen Nursing Home	Northfield, N.J.	Nursing home.
Turn In Drive-In Restaurant	Bath, Pa.	Restaurant and drive-in.
Lakeside Greenhouses	Laurel, Del.	Wholesale and retail greehouse operation.
Galvanizing Corp.	Ashland, Va.	Galvanizing.
Carolina Canners, Inc. (tenant of town of Cheraw).	Cheraw, S.C.	Canning and bottling soft drinks.
East Coast Limestone, Inc.	Maple Hill, N.C.	Mining and marketing limestone.
Ina Bearing Co., Inc. (tenant of town of Cheraw).	Cheraw, S.C.	Manufacturing of antifriction bearings.
Gulfport Convalescent Center, Inc.	Gulfport, Miss.	Nursing home.
New Hope Tool & Fabrication, Inc.	Moncure, N.C.	Manufacturing of tools and dies, model parts and gages.
Crown Cork & Seal Co., Inc. (tenant of city of Cheraw).	Cheraw, S.C.	Manufacturing of 12 oz drawn "N" iron cans and two-piece beverage.
Resporter Tooling	Standish, Mich.	Manufacturing of tools, dies, jigs, and fixtures.
Laubach Corp., d.b.a. Park View Nursing Home.	Edgerton, Ohio	Nursing home.
Heritage Park Inc.	Rogers, Ark.	Nursing care.
The Baca Grande Angel Fire Corp.	Angel Fire, N. Mex.	Restaurant and ski operation.
American Family Homes, Inc.	Anderson, Mo.	Manufacturing of mobile homes.
Eaton International Corp.	Pagosa Springs, Colo.	Restaurant and lodge.
Raven Industries, Inc. (tenant of city of DeSmet).	DeSmet, S. Dak.	Manufacturing of men's and children's insulated jackets and vests.
Eversole Mortuary, Inc.	Ukiah, Calif.	Funeral services and crematories.
Magic West, Inc.	Glenns Ferry, Idaho	Manufacturing of potato flakes and packaging of fresh potatoes.

[FR Doc.77-3802 Filed 2-3-77;8:45 am]

FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Availability of Federal Supplemental Benefits in the State of Tennessee

This notice announces the beginning of a new Federal Supplemental Benefit Period in the State of Tennessee, effective January 30, 1977.

BACKGROUND

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 preceeding 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.

DETERMINATION OF "ON" INDICATOR

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), (Title 20 of the Code of Federal Regulations, § 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 Tennessee has determined under the Act and 20 CFR 618.19(a)(2) (published in the FEDERAL REGISTER on March 33, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on January 15, 1977, 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 Tennessee for the week ending January 15, 1977, and that a Federal Supplemental Benefit Period therefore commenced in that State with the week beginning on January 30, 1977.

INFORMATION FOR CLAIMANTS

There will be a 5-per centum period in effect in the new Federal Supplemental Benefit Period, commencing at the be-

ginning 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.

Persons who believe they may be entitled to Federal Supplemental Benefits in the State of Tennessee, or who wish to inquire about their rights under this program, should contact the nearest State Employment Security Office of the Tennessee Department of Employment Security in their locality.

Signed at Washington, D.C., on February 1, 1977.

WILLIAM B. HEWITT,
Acting Assistant Secretary for Employment and Training.

[FR Doc.77-3654 Filed 2-3-77;8:45 am]

FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Availability of Federal Supplemental Benefits in the State of West Virginia

This notice announces the beginning of a new Federal Supplemental Benefit Period in the State of West Virginia, effective January 30, 1977.

BACKGROUND

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.

DETERMINATIONS OF "ON" INDICATOR

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), (Title 20 of the Code of Federal Regulations, § 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 West Virginia 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 on January 15, 1977, 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 West Virginia for the week ending January 15, 1977, and that a Federal Supplemental Benefit Period therefore commenced in that State with the week beginning on January 30, 1977.

INFORMATION FOR CLAIMANTS

There will be a 5-per centum period in effect in the new Federal Supplemental Benefit Period, commencing at the beginning of the new periord. 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.

Persons who believe they may be entitled to Federal Supplemental Benefits in the State of West Virginia, or who wish to inquire about their rights under this program, should contact the nearest State Employment Office of the West Virginia Department of Employment Security in their locality.

Signed at Washington, D.C. on February 1, 1977.

WILLIAM B. HEWITT,
Acting Assistant Secretary for Employment and Training.

[FR Doc.77-3655 Filed 2-3-77;8:45 am]

Office of the Secretary

[TA-W-1,585]

DIXON VALVE & COUPLING 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 Dixon Valve and Coupling Co., Chestertown, Maryland (TA-W-1,585). 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 stainless steel valves, nipples and clamps produced by Dixon Valve and Coupling 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 February 14, 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 February 14, 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.77-3255 Filed 2-3-77;8:45 am]

[TA-W-1,588]

HORTON & HUBBARD MANUFACTURING CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 24, 1977 the Department of Labor received a petition dated December 28, 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 Horton & Hubbard Manufacturing Corporation, Nashua, New Hampshire, a Division of Brown Group, Incorporated, St. Louis, Missouri (TA-W-1,588). 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 luggage produced by Horton & Hubbard Manufacturing 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 February 14, 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 February 14, 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 24th day of January 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-3526 Filed 2-3-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

AMERICAN STATISTICAL ASSOCIATION ADVISORY COMMITTEE ON STATISTICAL POLICY

Public Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the American Statistical Association Advisory Committee on Statistical Policy to be held in Room 9104, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C., on March 14 and 15, 1977 at 10 a.m.

The purpose of the meeting is to hear remarks from the Deputy Associate Director for Statistical Policy on recent actions which affect the Federal statistical system especially as they relate to recommendations of the Advisory Committee during the past few years. A major topic of discussion will be a framework for planning U.S. Federal statistics, 1978-1989. The Committee will give particular attention to the chapters of the framework on organization, economic statistics and an overview of social statistics. The Committee will also give advice on improving communications between professional associations and Federal agencies. The meeting will be open to public observation and participation.

Anyone wishing to participate should contact the Deputy Associate Director for Statistical Policy, Room 10202, New Executive Office Building, Washington, D.C. 20503, telephone (202) 395-3836.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-3741 Filed 2-3-77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 28, 1977 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant

issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529).

NEW FORMS

DEPARTMENT OF COMMERCE

National Bureau of Standards: Microwave Oven Usage Survey, NBS-1073A & B, single-time, Owners of Microwave Ovens Conventional Kitchen Ranges, Charles A. Ellett, 395-5867.

DEPARTMENT OF DEFENSE

Defense Civil Preparedness Agency: Citizens Band Questionnaires, single-time, Civil Preparedness and Public Heads, CB Team Leaders, Warren Topelius, 395-5872.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration: Report to Social Security Administration by Person Outside United States, SSA-1425FC, on occasion, Persons Receiving Soc. Sec. Benefits, David P. Caywood, 395-3443.

Reporting events—SSI, SSA-8150, on occasion, Persons Receiving SSI Income, David P. Caywood, 395-3443.

Reporting Changes That Affect Your Social Security Payment, SSA-1425, on occasion, Individuals Receiving Social Security Retirement, David P. Caywood, 395-3443.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service: California Grape Vine and Acreage Survey, Annually, Grape Farmers, Will Sherman, 395-4730.

Food and Nutrition Service:

Statistical Sampling and Reporting of Review, Findings—QC Program, semi-annually, State Agencies, Milo B. Sunderhauf, 395-6140.

Household Sample—QC Program (Food Stamp), FNS-245 & Handbook 301, on occasion, Food Stamp Participants & Applicants: State Agencies, Milo B. Sunderhauf, 395-6140.

Statistical Reporting Service: Wheat Objective Yield Survey, Monthly, Wheat Growers, Will Sherman, 395-4730.

Food and Nutrition Service: Monthly Distribution of Donated Commodities to Family Units, FNS-152, State Distributing Agencies, Warren Topelius, 395-5872.

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration: Metal-Nonmetal Mine Injury and Illness Report, 3000-3, on occasion, All Metal/Nonmetal Mine Operations, Charles A. Ellett, 395-5867.

Land Management: Special Land Use Application and Permit, 2920-1, on occasion, Special Land Use Applicants and Permit Applicants, Warren Topelius, 395-5872.

U.S. Geological Survey: Inventory of Hydrologic Data Acquisition, Areal Investigations and Miscellaneous Activities, on occasion, Agencies or Other Organizations that Collect Water Data, Tracey Cole, 395-5870.

DEPARTMENT OF LABOR

Employment and Training Administration: Weekly Report of Claims-Taking Activities, ES-210, weekly, State ES Offices, Arnold Strasser, 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration:

Report of New Information in Disability Cases, SSA-612, on occasion, Disabled Persons or Their Representative Payees, Marsha Traynham, 395-4529

Child Relationship Statement, SSA-2519, on occasion, Individual Who Has Info. Re Child, Marsha Traynham, 395-4529.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration:

Telephone Survey—Plan for Determination of Highway Problems Due to the National Flood Insurance Program, single-time, State Highway Engineer, Arnold Strasser, 395-5867.

Federal Aviation Administration:

Application for Repair Station Certificate and/or Rating, FAA-8310-3, on occasion, Private Individuals/Firms, Warren Topelius, 395-5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-3797 Filed 2-3-77;8:45 am]

POSTAL SERVICE

ROCHESTER MANAGEMENT SECTIONAL CENTER AND GENERAL MAIL FACILITY

Availability of Draft Environmental Statement

Consistent with sections 775.6 and 775.7 of the proposed Environmental Statement Procedures published by the Postal Service in the FEDERAL REGISTER on August 24, 1976 (41 FR 35725), and being followed pending final adoption, the Postal Service gives public notice of the availability for comment of a Draft Environmental Impact Statement (DEIS) for its Rochester Management Sectional Center and General Mail Facility project. The DEIS analyzes the proposed completion and operation of a new mail processing and vehicle maintenance facility being constructed in Henrietta, New York. This action would involve the consolidation of certain operations from the Main Post Office in Rochester, New York, and all activities now conducted in the Vehicle Maintenance Facility and the Sectional Handling Center in Henrietta, into a new Rochester General Mail Facility to be located in Henrietta.

The DEIS is offered in response to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. No. 91-190, 42 U.S.C. 4321 et seq.; Title IV of the Intergovernmental Cooperation Act of 1968, Pub. L. No. 90-577, 42 U.S.C. 4231-4233; Postal Service Environmental Statement Procedures, 39 CFR Part 775; and the court's decision in "City of Rochester and Genessee—Finger Lakes Regional Planning Board v. U.S. Postal Service," Civil No. 76-6065 (2d Cir., Sept. 3, 1976).

Copies of the DEIS may be obtained upon written request to: Mr. Robert H. Coven, Director, Office of Program Planning, United States Postal Service, c/o Ecoloy and Environment, Inc., P.O. Box D, Buffalo, New York 14225.

Comments regarding the DEIS are invited from the public, from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved. Comments and requests for additional information should be addressed to: Mr. William E. Finn, MSC Manager/Postmaster, 216 Cumberland Street, Rochester, New York 14603. In order to be considered in the preparation of the final environmental statement, comments must be received by March 22, 1977.

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.77-3609 Filed 2-3-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 09/14-5086]

ASSOCIATED SOUTHWEST INVESTORS, INC.

Filing of Application for Transfer of Control

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to 13 CFR 107.701 (1976) for the transfer of control of Associated Southwest Investors, Inc. (licensee), a small business investment company licensed by the Small Business Administration on December 9, 1971, and operating under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act).

Licensee, an Arizona Corporation with its principal place of business located 4325 North Wells Fargo, Scottsdale, Arizona 85251, is presently owned by the following stockholders:

Name	Shares	Percent of ownership
National Council of La Raza, 1725 I St. NW., Washington, D.C. 20006	222,000	44
Home Education Livelihood Program, 5000 Marble N.E., Albuquerque, N. Mex. 87110	270,000	53
Valley National Bank, Phoenix, Ariz	15,000	3

Under an Agreement of Transfer and Purchase, Siete del Norte a Community Development Corporation located at 216-B Riverside Drive, N.E., Espanola, New Mexico 87532, will acquire 230,000 shares of the licensee's stock from Home Education Livelihood Program as a grant and will purchase from the licensee an additional 200,000 shares of authorized but unissued stock at $1 per share.

Upon consummation of the transfer of control, the paid-in capital and paid-in surplus of the licensee will be increased to $707,000 from $507,000 and Siete del Norte Community Development Corporation will own 60 percent of the licensee's outstanding stock.

There is no change of management of the licensee being considered at this time.

Notice is further given that any person may submit written comments on

the proposed transfer of control to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, on or before February 22, 1977.

A similar notice shall be published by the licensee in a newspaper of general circulation in Scottsdale, Arizona, and also in Espanola, New Mexico.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.

Dated: January 27, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-3507 Filed 2-3-77;8:45 am]

AUGUSTA DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Augusta District Advisory Council will hold a public meeting at 12:00 p.m., Thursday, February 24, 1977, at the Hawaiian Gardens, Western Avenue, Augusta, Maine, to discuss such business as may be presented by members, staff of the Small Business Administration and others present. For further information write or call Thomas A. McGillicuddy, District Director, Federal Building, 40 Western Avenue, Augusta, Maine 04330, (207) 622-6171, Ext. 225.

Dated: January 28, 1977.

HENRY V. Z. HYDE, Jr.,
Deputy Advocate for Advisory Councils.

[FR Doc.77-3729 Filed 2-3-77;8:45 am]

DENVER DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Denver District Advisory Council will hold a public meeting at 9:00 a.m., Thursday, March 3, 1977, in the Federal Office Building, Room 2330 (2nd Floor), 1951 Stout Street, Denver, Colorado, to discuss such business as may be presented by members, staff of the Small Business Administration and others present. For further information write or call Douglas F. Graves, U.S. Small Business Administration, 721 19th Street—Room 407, Denver, Colorado 80202, (303) 327-3673.

Dated: January 28, 1977.

HENRY V. Z. HYDE, Jr.,
Deputy Advocate for Advisory Councils.

[FR Doc.77-3728 Filed 2-3-77;8:45 am]

DETROIT DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Detroit District Advisory Council will hold a public meeting at 9:00 a.m., Friday, March 4, 1977, at Weber's Inn, 3050 Jackson Road, Ann Arbor, Michigan, to discuss such business as may be presented by members, staff of the Small Business Administration and others present. Registration will begin at 8:30 a.m. For further information call Raymond Harshman, U.S. Small Business Administration, Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Michigan 48226, (313) 226-7260.

Dated: January 28, 1977.

HENRY V. Z. HYDE, Jr.,
Deputy Advocate for Advisory Councils.

[FR Doc.77-3727 Filed 2-3-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority No. 100]

ASSISTANT ADMINISTRATORS

Delegation of Authority To Determine Adequacy of Assurances of Host Country Participation and Waiver Authority

Section 1. Pursuant to the authority vested in me by Delegation of Authority No. 104 from the Secretary of State, dated November 1, 1961 (26 F.R. 10608), as amended, I hereby delegate to the Assistant Administrator for Africa, the Assistant Administrator for Near East, the Assistant Administrator for Asia, the Assistant Administrator for Latin America, the Assistant Administrator for Program and Management Services, the Assistant Administrator for Program Policy Coordination, the Assistant Administrator for Technical Assistance, and the Assistant Administrator for Population and Humanitarian Assistance, each for the projects, activities, countries or areas within their responsibility, the authority to receive and to determine the adequacy of the assurances required by Section 110(a) of the Foreign Assistance Act of 1961, as amended.

Section 2. If assurances are made with respect to all or part of a sectoral program rather than with respect to an individual project or activity, the authority to receive and to determine the adequacy of such assurances is reserved to the Assistant Administrator for Africa, the Assistant Administrator for Near East, the Assistant Administrator for Asia, and the Assistant Administrator for Latin America, each for the countries or areas within the responsibility of the officers named in this section.

Section 3. The authority to receive and to determine the adequacy of assurances with respect to any individual project or activity may be redelegated to those officers having authority to authorize projects or activities.

Section 4. There is delegated hereby to the officers named in Section 1 of this Delegation of Authority the authority to waive the cost-sharing requirement of Section 110(a) of the Foreign Assistance Act of 1961, as amended, in the case of a project or activity in a country which the officer determines is relatively least developed based on the United Nations Conference on Trade and Development list of "relatively least developed countries." The authority delegated in this Section may not be redelegated, but may be exercised by a Deputy Assistant Administrator having "alter ego" authority, or by a person performing the functions of an officer named in Section 1 in an "Acting" capacity.

Section 5. A.I.D. Delegation of Authority No. 100, dated May 8, 1974, as amended, is hereby rescinded.

Section 6. This Delegation of Authority shall be effective immediately.

Dated: December 13, 1976.

JOHN E. MURPHY,
Deputy Administrator.

[FR Doc.77-3459 Filed 2-3-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

DEBT MANAGEMENT ADVISORY COMMITTEES

Renewal Notice

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 5 U.S.C. App. I, Supp. III), the Department of the Treasury, with concurrence from the Office of Management and Budget, announces its decision to continue utilization of the following industry committees as advisory committees:

Titles: (1) Government Borrowing Committee of the American Bankers Association.

(2) U.S. Government and Federal Agencies Securities Committee of the Public Securities Association (formerly known as the Government Securities and Federal Agencies Committee of the Securities Industry Association).

Purpose: These committees are utilized by the Secretary of the Treasury and his staff for advice in carrying out Federal financing and public debt management. They consider commercial and financial information relevant to Treasury debt management operations, advise the Secretary of the Treasury and his staff, and make reports and recommendations.

Statement of Public Interest: The membership of these committees represents a cross section of the financial community. The members are intimately acquainted with commercial and financial information and day-to-day market factors relevant to Treasury debt management operations. It is in the public interest to insure that the Secretary of the Treasury and his staff have this supplemental information in order to manage the public debt.

Authority for these committees will expire two years from the date new charters are signed and filed with the appropriate Committees of the Senate and House of Representatives.

Dated: January 28, 1977.

WARREN F. BRECHT,
Assistant Secretary (Administration).

[FR Doc.77-3788 Filed 2-3-77;8:45 am]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 28, 1977, at 9:00 AM, the Portland, Oregon Regional Office Station Committee on Educational Allowances shall at Room 1376, Federal Building, 1220 SW 3rd Avenue, Portland, Oregon, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Oregon Polytechnic Institute, Portland, Oregon, should be discontinued, as provided in 38 C.F.R. 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: January 26, 1977.

DONNA M. ARNDT,
Director, VA Regional Office.

[FR Doc.77-3628 Filed 2-3-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 318]

ASSIGNMENT OF HEARINGS

FEBRUARY 1, 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 notice 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.

AB-19 (Sub-No. 19), Baltimore and Ohio Railroad Company Abandonment Portion of the Ohio and Little Kanawha Branch Between Relief and Philo, in Muskingum, Morgan and Washington Counties, Ohio, continued to March 9, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 124211 (Sub-No. 278), Hilt Truck Line, now assigned February 1, 1977, at Washington, D.C. is canceled and application dismissed.

MC 119988 (Sub-No. 94), Great Western Trucking Co., Inc., now assigned March 14, 1977, at Denver, Colo. will be held in Room 595, Federal Courthouse, 1961 Stout Street.

MC 107452 (Sub-No. 5), R. D. Brown DBA Dan Brown Trucking, now assigned March 15, 1977, at Denver, Colo. will be held in Room 595, Federal Courthouse, 1961 Stout Street.

MC 115904 (Sub-No. 45), Grover Trucking Co., now assigned March 17, 1977, at Denver, Colo. will be held in Room 595, Federal Courthouse, 1961 Stout Street.

MC 113678 (Sub-No. 633), Curtis, Inc., now assigned March 16, 1977, at Denver, Colo. will be held in Room 595, Federal Courthouse, 1961 Stout Street.

MC-F 12826, F-B Truck Line Company—Purchase (Portion)—Archer Freight Lines, Inc., MC 124533 (Sub-No. 69), F-B Truck Line Company, MC-F-12827, Lester Smith Trucking, Inc.—Purchase (Portion)—Archer Freight Lines, Inc. and MC 57697 (Sub-No. 2), Lester Smith Trucking, Inc., now assigned March 21, 1977, at Denver, Colo. will be held in Room 595, Federal Courthouse, 1961 Stout Street.

MC 134922 (Sub-192), B. J. Mcadams, Inc., now assigned March 15, 1977 at Columbus, Ohio, will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 134150 (Sub-7), Southwest Equipment Rental, Inc., d/b/a Southwest Motor Freight, now assigned March 16, 1977 at Columbus, Ohio, will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 115841 (Sub-522), Colonial Refrigerated Transportation, Inc., now assigned March 21, 1977 at Cincinnati, Ohio, will be held in Room 5008, Federal Office Building, 550 Main Street.

MC 83539 (Sub-No. 445), C & H Transportation Co., Inc.; MC 106497 (Sub-No. 136), Parkhill Truck Company; MC 114273 (Sub-No. 272) CRST, Inc.; MC 117574 (Sub-No. 279), Dailey Express, Inc.; MC 127820 (Sub-No. 8), Trans-Service, Inc. and MC 136828 (Sub-No. 12), Cooks Transports, Inc., now being assigned March 17, 1977 (2 days), at Columbus, Ohio; in Room 235 Federal Office Building, 85 Marconi Boulevard.

MC 138875 Sub 29, Shoemaker Trucking Company now assigned February 1, 1977 at Boise, Idaho is cancelled, application dismissed.

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-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 assigned March 17, 1977 at Columbus, Ohio, will be held in Room 235 Federal Office Building, 85 Marconi Boulevard.

MC 119789 Sub 307, Caravan Refrigerated Cargo, Inc. now being assigned March 22, 1977 (1 day) at New York, New York in a hearing room to be later designated.

MC 142398, East Forward, Inc. now assigned March 22, 1977 at New York, New York is cancelled, application dismissed.

MC-F 12974, Takin Bros. Freight Lines, Inc.—Purchase (Portion)—Chi-Fil, Inc. now assigned February 14, 1977 at Chicago, Illinois is now cancelled indefinitely.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-3663 Filed 2-3-77;8:45 am]

federal register

FRIDAY, FEBRUARY 4, 1977

PART II

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

■

GRAZING FEE TASK FORCE

Charter and Requests for Comments

DEPARTMENT OF AGRICULTURE

Forest Service

GRAZING FEE TASK FORCE

Charter and Requests for Comments

CROSS REFERENCE: For a document issued jointly by the Department of Agriculture's Forest Service and the Department of the Interior's Bureau of Land Management on the subject of Grazing Fee Task Force Charter, see FR Doc. 77-3310 appearing in Part II of this issue.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

GRAZING FEE TASK FORCE

Charter and Request for Comments

Notice is hereby given that the Bureau of Land Management, Department of the Interior, and the Forest Service, Department of Agriculture, have jointly established a task force to study fees for grazing livestock on Federal lands the two agencies administer, and to prepare a report and recommenations. The purpose is to advise the public of the charter of the Grazing Fee Task Force and of the intent to request comments on grazing fees.

CHARTER OF GRAZING FEE TASK FORCE

In compliance with Section 401(a) of Pub. L. 94-579, a joint Bureau of Land Management and Forest Service Grazing Fee Task Force, will preare the "Report of the Secretaries" for submission to the Congress on or before October 21, 1977.

TASK FORCE STAFF

Co-chairman:
William L. Evans, Director of Range Management, Forest Service, Department of Agriculture.
Kay W. Wilkes, Chief, Division of Range, Bureau of Land Management, Department of the Interior.
Members:
Melvin D. Bellinger, Forst Service.
Ronald J. Younger, Bureau of Land Management.
Consultant:
Economic Research Service, Department of Agriculture.

STATEMENT OF AUTHORITY

Section 401(a) of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579), directs the Secretary of Agriculture and the Secretary of the Interior to jointly conduct a study to determine the value of grazing with a view to establishing a fee to be charged for livestock grazing which is equitable to the United States and to holders of grazing permits and leases. The Secretaries shall report to the Congress by October 21, 1977, the results of such study together with recommendations to implement a reasonable grazing fee schedule based on such study.

A letter dated December 29, 1976, and signed by the Assistant Secretary of the Interior and the Assistant Secretary of Agriculture, directed the Bureau of Land Management and the Forest Service to organize a Grazing Fee Task Force to prepare the "Report of the Secretaries."

The Economic Research Service, Department of Agriculture, will be a consultant to the Grazing Fee Task Force. Staff assigned by the Administrator of the Economic Research Service will participate in the collection and review of public comments and will provide advice on methodology, on evaluation of data, and on economic issues.

The task force co-chairmen are authorized to solicit assistance and advice from other sources as necessary.

STATEMENT OF ASSIGNMENT

The task force is assigned the responsibility for the accomplishment of all activities necessary to submit to the two Secretaries a grazing fee report, including recommendations, that will fulfill the requirements of Section 401(a) of the Federal Land Policy and Management Act. These activities include scheduling regional public meetings, obtaining necessary technical data, public release of the Technical Committee report, "Review of Public Land Grazing Fees," consultation with the Office of Management and Budget, and reporting back to the Assistant Secretary of the Interior for Land and Water Resources and the Assistant Secretary of Agriculture for Conservation, Research, and Education by August 1, 1977.

The Grazing Fee Task Force shall terminate not later than December 21, 1977.

The charter of the Grazing Fee Task Force is approved by:

Dated: January 28, 1977.

JOHN R. MCGUIRE,
Chief, Forest Service.

CURT BERKLUND,
Director, Bureau of Land Management.

REQUEST FOR COMMENTS

Pursuant to the charter, notice is given of intent to solicit suggestions, comments, statements, and recommendations from all parties interested in the establishment of fees for grazing livestock on the Federal lands in the western States administered by the Forest Service, Department of Agriculture, and the Bureau of Land Management, Department of the Interior. Any individual desiring to present data, suggestions, comments, and/or arguments orally may do so within available time limits at one of the scheduled meetings. Any interested person or organization may file a written statement with the task force at the scheduled meetings.

The Grazing Fee Task Force will consider comments regarding grazing fees on the following Federal lands:

1. Public lands administered by the Bureau of Land Management, Department of the Interior.

2. National Forest lands in the eleven contiguous western States administered by the Forest Service, Department of Agriculture.

3. National Forest lands in South Dakota and Nebraska administered by the Forest Service.

4. All National Grasslands administered by the Forest Service.

Interested persons may submit written comments on grazing fees on or before April 8, 1977. Written communications should be directed to the Grazing Fee Task Force, Range Management Staff, P.O. Box 2417, Washington, D.C. 20013, or presented at any one of the seven scheduled public meetings. All Comments received will be available for public inspection during regular business hours in Room 610, 1621 North Kent Street, Arlington, Virginia, or in Room 5558, Department of the Interior Building, 17th and D Street, Washington, D.C.

The public meetings are scheduled at the locations and dates listed below during the hours of 9:30 a.m., to 3:00 p.m.

Rapid City, S. Dak	Mar. 7, 1977
Missoula, Mont	Mar. 9, 1977
Boise, Idaho	Mar. 11, 1977
Reno, Nevada	Mar. 14, 1977
Denver, Colo	Mar. 16, 1977
Albuquerque, N. Mex	Mar. 18, 1977
Washington, D.C	Mar. 23, 1977

Further information about meeting locations may be obtained from the Bureau of Land Management or Forest Service offices in the cities listed above.

INFORMATION AVAILABLE

Special attention is directed to the following provisions of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579);

SECTION 102(a). The Congress declares that it is the policy of the United States that * * *

(9) The United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute;

SECTION 401(a). The Secretary of Agriculture and the Secretary of the Interior shall jointly cause to be conducted a study to determine the value of grazing on the lands under their jurisdiction in the eleven western States with a view to establishing a fee to be charged for domestic livestock grazing on such lands which is equitable to the United States and to the holders of grazing permits and leases on such lands. In making such study, the Secretaries shall take into consideration the costs of production normally associated with domestic livestock grazing in the eleven western States, differences in forage values, and such other factors as may relate to the reasonableness of such fees. The Secretaries shall report the result of such study to the Congress not later than one year from and after the date of approval of this Act, together with recommendations to implement a reasonable grazing fee schedule based upon such study. If the report required herein has not been submitted to the Congress within one year after the date of approval of this Act, the grazing fee charge then in effect shall not be altered and shall remain the same until such report has been submitted to the Congress. Neither Secretary shall increase the grazing fee in the 1977 grazing year.

REPORT: "REVIEW OF PUBLIC LAND GRAZING FEES"

The Technical Committee report, "Review of Public Land Grazing Fees" was submitted in November 1976, in fulfillment of the Memorandum of Understanding signed in July 1976 between the Bureau of Land Management, Forest Service, Economic Research Service, and Statistical Reporting Service. We believe the report will fulfill the study requirements of Section 401(a) of Pub. L. 94-579. The report is expected to be a primary document used by the Grazing Fee Task Force and is being published here for the convenience of interested individuals and/or organizations that may desire to submit written comments regarding the "Review of Public Land Grazing Fees." The publication of the "Review of Public Land Grazing Fees" does not constitute approval of the report's recommendations by the Secretary of the Interior or Secretary of Agricul-

ture. Issued in Washington, D.C., January 27, 1977, by the Chief, Forest Service and Director, Bureau of Land Management.

Dated: January 28, 1977.

JOHN R. MCGUIRE,
Chief, Forest Service.

CURT BERKLUND,
Director, Bureau of Land Management.

REVIEW OF PUBLIC LAND GRAZING FEES: NOVEMBER 15, 1976

A report prepared by the Technical Committee organized to review public land grazing fees, Department of the Interior, Bureau of Land Management, and Department of Agriculture, Economic Research Service, Statistical Reporting Service and the Forest Service.

REVIEW OF PUBLIC LAND GRAZING FEES: NOVEMBER 15, 1976

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TECHNICAL COMMITTEE MEMBERS

Dr. John Trierweiler, Chairman; Economic Research Service, USDA.
Melvin D. Bellinger; Forest Service, USDA.
James L. Olsen; Statistical Reporting Service, USDA.
Ronald J. Younger; Bureau of Land Management, USDI.

SUMMARY

The Technical Committee to Review Public Land Grazing Fees was formed by a Memorandum of Understanding on July 12, 1976 between ERS, USDA; SRS, USDA; FS, USDA; and BLM, USDI. The committee was formed to prepare a report on "Public Land Grazing Fees." The specific tasks of the Technical Committee were:

A. To examine the present procedures for establishing grazing fees.

B. To examine the several alternatives which have been proposed as replacement or modification for all or portions of present procedure.

C. Identify available or additional secondary data which might enhance the present or alternatives procedures for determining fees.

The review was conducted within existing administrative mandates that a fair market value fee must be collected and that permit value would not be considered a valid cost factor for determining public land grazing fees.

In order that the review be helpful in resolving, or reducing the controversy about grazing fees, two meetings were held so that the various interest groups could present their views on the public land grazing fee issue, suggested alternatives, and factors to be considered and/or clarified.

Evaluation of the existing system of fee determination or the suggested alternatives requires a criteria for comparison. Although there is no obvious way to determine what is "fair," it can be shown that the competitive norm satisfies the conditions of a welfare ideal. Few economists would claim that pure competition does or ever has existed, but it does provide a logical starting place for evaluation of great many economic problems. The competitive norm incorporates the efficiency concept of equimarginal resource returns, where the value of a resource is determined by its value in use.

The 1969 system (the method used during the 1969–1976 period for grazing fee determination by the BLM and FS) includes three major elements. The first is the economic model and data collection survey used to establish the fair market value fee level of 1966. Second is the ten-year adjustment of grazing fees from previous levels to the fair market value level. Third, the procedure used to make annual adjustments in the fair market value. Nearly all of the controversy surrounding the grazing fees issue is with the adjustment factor. The procedure involves adjusting the 1966 base fee of $1.23 to current values by the Index of Private Land Lease Rates in the eleven Western States for dry land range.

A number of alternatives have been suggested by various groups to update or adjust the base fair market value fee of $1.23. Although each proposal is different they all bear the same basic concept, and that is adjustments should be made by changes in the price of output relative to changes in the price of inputs. The formula most often suggested was a Beef Price Index minus a Cost of Production Index. Other suggestions include arbitrary constraints on yearly adjustments or the use of moving averages.

A major concern at the external meetings was the quality of the data used to compute the Index on Private Land Lease Rates. There was also concern about the components of cost that were included in the Prices Paid Index (to be used as Cost of Production Index) as well as a redundancy between the Beef Price Index and the Prices Paid Index. The committee suggested that data on private land lease rates could be improved if it were collected on probability list frame sample that included only livestock operators instead of on a general Farm Report questionnaire. New questions were also suggested for the data collected. The Prices Paid Index could be improved by eliminating a number of cost items not relevant to western range livestock production. The redundancy in the Beef Price Index could be eliminated by excluding calves.

With a history of a market economy for all other products and resources used in agriculture, the obvious solution would be a competitive bidding system for the use of the public range. However, tenure arrangements, institutional goals, management restriction, and location of grazing lands has effectively eliminated the competitive requirement. Therefore less efficient administered pricing schemes must be developed. The task of the Technical Committee then became one of recommending the proper "proxi" for the competitive bid.

Adjusting grazing fees using the Index of Private Land Lease Rates (current method) may best be described as the comparative market approach. It is based on the premise that an individual will not pay more for the use of a resource than his next best alternative, or conversely, the owner of a resource should receive a value equivalent to that which could be realized from the next best alternative use of that resource. The committee felt that the index was a good indicator of long term adjustments taking place in western range livestock industry. It duplicates economic adjustments in the competitive sector, and is the only alternative suggested or discussed that incorporates measures of technical efficiency. Improvements made in the data collection process and discussed in the previous section should eliminate concern about the relevancy and accuracy of the data. However, the Technical Committee was concerned about the ability of the index to reflect short-run instabilities that result during periods of demand, supply and price disequilibrium. In the past this index has failed to account for short-run instabilities.

The combined index (Beef Price Index minus the Prices Paid Index) was rejected by the committee as the only adjustment factor in the grazing fee formula because it does not respond to long-run adjustments in resource use or efficiency, and would result in a declining real rent over time. However, it was felt that the combined index did reflect short-run instabilities in the value of the range resource.

Recognizing the strengths and the weakness of the current formula as well as the alternative formulas, the Technical Committee recommended the following formula for determining grazing fees levels on public lands:

$$\text{FMV Fee/AUM} = \$1.23\left(\frac{L+P}{100}\right)$$

L=The improved Index of Private Land Lease Rates.

P=The reconstructed Index of Beef Prices minus the Prices Paid Index (selected items only).

This formula is recommended in the light that it provides for a consistent and efficient method of pricing the public grazing resources. The long-run trend is based on the value of the alternative resource while at the same time accounting for short-run instabilities in either livestock prices or input prices. The committee has further recommended an improvement in the data collection procedures on the private land lease rates. Some modification was also suggested for the Prices Paid Index to make it more accurately reflect western range livestock operations.

NOVEMBER 15, 1976.

I. Introduction

The Technical Committee to Review Public Land Grazing Fees was formed by a Memorandum of July 12, 1976, in response to the request of Subcommittee on Environment and Land Resources, Committee on Interior and Insular Affairs, United States Senate, at the April 30, 1976 Committee Hearing on S. 3071. This report of the Technical Committee is transmitted to the Assistant Secretary for Conservation, Research and Education, U.S. Department of Agriculture; Assistant Secretary, Land and Water Resources, U.S. Department of the Interior; and Director of Agricultural Economics, U.S. Department of Agriculture.

The purpose of the review is to reconsider and examine the present 8-year-old formula for determining grazing fees in light of the criticism directed at it and the alternatives proposed.

The review by the Technical Committee:

A. Examines the present procedures for establishing grazing fees in light of recent criticism, and in light of its fulfillment of expectations in 1968–69.

B. Examines the several alternatives which have been proposed as replacement or modification for all or a portion of present procedures.

C. Identifies available or additional secondary data which might enhance the present or alternative procedures for determining fees.

The Analysis by the Technical Committee:

A. Determines the validity of various fee procedure proposals relative to the existing system and the existing Administration mandates.

B. Indicates combinations of data or procedures which are compatible with existing Administration mandates.

C. Indicates the ranking of the several proposals based on economic criteria.

D. Indicates useable data in modification of existing procedures.

E. Provides the basis for decision within the Administration on further action regarding fees.

II. Limit of Scope

The review was conducted within existing administration mandates that a fair market value fee must be collected (BOB, Circular No. A–25) and permit value would not be considered a valid cost factor for determining public land grazing fees. The collection of new primary data was not to be included in the study. However, the need for new studies and/or collection of primary data could be a conclusion of the review. The review and analysis was limited to a search of and use of available secondary data. New tabulation of existing data, new indexes, improved methods of collection of data for existing data series, or new use of existing data were considered.

External Consultations

In order for this review to be helpful in resolving, or reducing the controversy about grazing fees, it must serve to increase general understanding as well as meet technical criteria. The livestock industry, through the American National Cattlemen's Association and the Public Lands Council, was fully informed and involved in defining the nature and extent of this Review of Grazing Fees. The appropriate professionals of the Western universities were informed and involved. The environmental concerns were kept appraised through the National Wildlife Federation and the Wildlife Management Institute.

A meeting was held in Denver, Colorado on August 25, 1976. A second meeting was held in Washington, D.C. on September 20, 1976. At both meetings participants from the above listed interest groups presented their views on the public land grazing fee issue.

III. Criteria for Determining Fair Market Value of Public Grazing

An expression currently in vogue with younger people goes "whatever is fair", or a slightly different expression, "fair is fair". Like many slang expressions it does not have a precise dictionary definition, but its use connotation translates roughly "if you are satisfied, I'm satisfied". In short, "fair" expresses mutual satisfaction between parties involved. The key word is mutual. Fair also suggests justice or equity.

Economists have found no obvious way to determine what is "fair". Welfare comparisons would be relatively simple if it were possible to aggregate the utilities of individuals into a single utility function. However welfare comparisons of individual utilities are possible only in a very restricted sense. It is reasonable to postulate that social welfare transcends the more restricted notion of economic welfare, but for obvious reasons this analysis will be restricted to the latter.

Economic efficiency, often called Pareto optimality, states that the distribution of consumer goods and productive inputs are optimal if any feasible reallocation of goods or inputs causes a reduction in the satisfaction or output of any individual or firm. It can be shown that a perfectly competitive equilibrium satisfies these conditions, and thus perfect competition is a welfare ideal in this sense. Efficiency in the consuming and producing sectors implies further that the allocation of resources is pareto-optimal throughout the economy.[1]

A difficulty with the concept of economic efficiency or Pareto optimality as a welfare criteria is that it accepts the prevailing income distribution, i.e. return to resources. It is conceivable that the norm of perfect competition could lead to a condition in which the majority of individuals lived at subsistence or below. The analysis of welfare in terms of perfect competition leaves a considerable amount of indeterminancy in the solution. This indeterminancy results from the acceptance of the criteria that an increase in welfare was unambiguously defined as an increase in one individuals position without being accompanied by a deterioration in the position of another. This indeterminancy can only be removed by further value judgments.

An Economic Norm

The above discussion stresses the inability of economic analysis to handle a welfare criterion outside of the norm of economic efficiency. To do otherwise would require value judgments or ethical considerations outside the subject of economic analysis.

Few economists would claim that pure competition does or has ever existed in the United States economy. However, pure competition provides a logical starting place if one is to understand imperfect competition. Further it has been shown that a considerable amount of competition does exist, particularly in agriculture, and that the theory of pure competition gives valid answers to a great many economic problems.[2] Lastly the pure competition model provides a norm or ideal from which to appraise the workings of the economic system. In the latter sense it is often used for regulation of imperfectly structured sectors of the economy, such as public utilities, as well as many other public policy measures.

The term competition is used rather ambiguously in economic literature as well as in ordinary conversation. To many people the term commonly denotes rivalry. Whereas, when used along with the term pure or perfect, it takes on a different meaning. From the illustration and previous discussion competition implies mutual satisfaction, fair market value, and efficient resource allocation.

Resource Pricing Under Pure Competition

Pure competition in the resource market implies a number of conditions: One, no single firm controls enough of any given resource to be able to influence its price; two, no one supplier of a resource can place enough on the market to influence its price; and three, resources are mobile and can move between different uses and its prices are flexible.

How, then, are resources valued in production? Let us look at the simultaneously pricing and output of decisions involved in the use of a variable resource in the organization of production. Suppose two ranchers living in the same community, one with an excess of summer forage, the other badly in need of more summer forage. Further they know of each others problem. Rancher Tom, who needs more forage, goes to rancher Ray to see about renting some of his summer pasture.

"Ray", says Tom, "would you consider renting me some pasture for the summer, I need some grazing for one of my cows? I'd pay you $60 for the privilege."

Ray thinking to himself that the extra grass is only worth about $5 if he used it replies, "sure Tom glad to help out."

[1] For a more theoretical approach see: Henderson, J. M. and Quandt, R. E. Microeconomic Theory, McGraw-Hill Book Company, 1968, Chapter 7, pages 203–207.

[2] The assumptions of pure and perfect competition are given in most introductory texts in Economics and will not be elaborated on at this time.

Tom was willing to pay $60 for the privilege while Ray figured it was only worth $5 in its existing use. Both men were satisfied and felt that a "fair" deal had been reached.

The bargaining is not over yet though. Ray having rented up a unit of summer grazing found he didn't have such an excess of pasture anymore. Tom's problem on the other hand was not so urgent anymore, as he didn't find himself in the same need for summer pasture. An additional unit of summer pasture is now only worth $40 to Tom. Trading of grazing privilege for rent would continue between Tom and Ray until eventually the forage was of equal value to both ranchers. In other words, the last unit traded would have equal marginal value to both Tom and Ray in production. Thus, a mutually advantageous trading situation had been achieved, and maximum efficiency had been attained by both. No further trading of grazing privileges would be advantageous to either party. The equimarginal principle has been achieved.

In a free competitive market for forage, both Tom and Ray would trade grazing privileges for cash rent until a "fair" market value had been reached by both parties. In addition, an efficient allocation of resource would have resulted. Generalizing from this simple illustration it may be said that the principle of equimarginal value in use asserts that an efficient allocation of forage has been attained when no mutually advantageous exchanges are possible between any pair of claimants.

Theoretically, the manager combines his resources such that the marginal value product or each resource is equal to the marginal value product of all other resources used in production. The attempt is to combine all of his resources (e.g. land, labor, capital) in such a manner that the productive values of the last unit of each resource added are all equal. To maximize profit, the manager organizes resources such that the marginal value product of each resource is equal to each other and to the marginal revenue received from the last unit of output. This procedure is called the equimarginal principle and can be defined by a simple formula:

(1) $MVP_a = MVP_b = MVP_c = MC_x = MR_x = P_x$

where:
MVP_i = marginal value product of the ith resource in production.
MC_x = sum of the marginal value products of the ith resources combined to produce output x, or the equivalent of marginal costs of production of the $x_{(n)}$ output.
MR_x = marginal revenue of the last unit of output x.
P_x = market price of output x.

In a competitively structured society the organization of production is determined by the principle forces of supply and demand. This basic framework along with the decisions of the human agents involved and tempered by the intensities created by time, form, and place lead to a reasonably efficient duality of resource pricing and allocation. This has been particularly true in agriculture because of the absence of barriers to entry (except high capital requirements), homogenity of the product between firms of like output, agriculture's atomistic structure, and the relative mobility of resources both into and out of agriculture. A large number of research studies have verified the long-run efficiency of agriculture.

THE REAL WORLD

The discussion to this point has considered only the "ideal" resource pricing and allocation system. Economic efficiency and the assumptions of a competitive system were discussed, as well as reference to U.S. agriculture industry generally conforming to these standards. Theoretically agriculture should be efficiently organized, at least in the long-run adjustments period, and few people familiar with U.S. agricultural production would argue its resource and technological efficiency.

However, production levels, resource allocation and pricing has not been so efficient in the short-run adjustment period for many sectors in agriculture. Animal production, and in particular the primary production level for both beef and lamb have demonstrated relatively inefficient production adjustments in the short-run when measured against the neoclassical model which was described as the "ideal" system.

Twenty years ago Glen Johnson and others postulated the theory of fixed assets, where a fixed asset is defined as one for which the marginal value productivity of a resource in its present use neither justified acquisition of more of it, or its disposition. Acquisition cost is what a farm or ranch operator would have to pay in order to acquire more of a particular productive asset. Salvage value is what the operation would get for the asset if it were sold rather than used in production. Neoclassical theory, which defines the equimarginal principle, assumes that markets are such that a manager can purchase more of an asset if it were profitable and that he can dispose of unwanted quantities at the same price. This is tantamount to saying that a firm will continue to produce in the short-run as long as it realizes a return on its variable resources, or stated differently, a firm in the very short-run can survive with no return to its most fixed assets if its cash flow is adequate to cover variable expenses. However, the difference between the theory of fixed assets and neoclassical theory is that resources usually considered variable in production actually become fixed in their present use. For example, labor and capital are normally considered variable resources. However, at primary production levels these variable inputs actually become fixed to the firm because their alternative use outside of production can temporarily drop as far as zero. The value in use that would be expected to accrue to these resources is often used by managers to bid up the use value (returns) of resources that have continued to remain variable. In the theory of fixed assets Johnson has pinpointed the reason for extremely inelastic or irreversible supply functions during periods of decreasing marginal revenue.[3]

Let us examine some of the components of argiculture and in particular the primary production level of livestock that lead to this type of behavior during periods of decreasing product price levels.

First, the combination of resources used in the production process are not discrete, but a bundle or package of resources. Marginal changes in revenue may not cause an adjustment in output levels or resource use because the bundle of resources cannot easily be separated. For example, the physical amount of labor available to the operator may be fixed over a rather large range of production, but the use value of the labor is variable. The balance between summer and winter forage may be unalterable at least in the short-run. If a shortage of summer pasture should occur the firm may be forced to bid up the value of this resource while simultaneously taking smaller returns on the remaining resources in the bundle, even in the face of decreasing marginal revenue for their product.

Second, variable resources become fixed because of the length of the production process. The primary reason for this is the time required for the biological process for plant and animal production. It may take two or more years from the time a market stimulus is received at the primary production level until actual output adjustments can be achieved. Time requirements for an increase in production can take three years or more for obvious reasons. The time aspects alone could cause inelastic short-run adjustment in resource use and output levels.

Third, the demand curve faced by the firm is perfectly elastic while that of the industry is inelastic. Individual firms fail to adjust output levels in the short-run, because of the atomistic structure of the industry.

Fourth, the duality aspect of the price system may work imperfectly. The role of price as a mechanism of trade is generally regarded as extremely efficient; However, the role of price as an organizer of production generally lacks the same performance standard. The problem may be that the human agent may be unable to bridge the gap from present product prices to expected price levels in the future. This lack of adjustment is

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[3] The concept of asset fixity is well documented in the following list of publications:

a. The Overproduction Trap In U.S. Agriculture, Glen L. Johnson and C. Leroy Quance, Resources for the Future, John Hopkin Press, 1972.

b. Glen L. Johnson and Lowell S. Hardin, "Economics of Forage Evaluation", Station Bulletin 623 (Lafayette: Purdue Univ. Agricultural Exp. Station, Apr 55).

c. Clark Edwards, "Resource fixity and Farm Organization"; Journal of Farm Economics, 41, Nov 1959).

d. G. L. Johnson, "Supply Function—Some Facts and Notions", Agriculture Adjustment Problems in a Growing Economy, (Ames, Iowa State College Press, 1958) p. 78.

closely related to length of the production process.

In summary, this discussion has pointed out some of the reasons the competitive or "ideal" system leads to short-run imperfections regarding resource valuation at the primary production levels of agriculture. The principle reason cited was the concept of the fixity of assets. While the competitive norm accurately values resources in the long-run, it has some shortcomings in the short-run adjustment period. Short-run instabilities have a significant effect on the value of resources used in production. In the case of administered prices, failure to recognize potential imperfections in the price norm results in windfall gains and losses. During periods of increasing marginal revenue the government would fail to receive full fair market value for its range resources. Conversely during periods of decreasing marginal revenues the government may charge in excess of fair market value for the range resource. The equimarginal principle states that the value of a resource is determined by its value in use.

IV. Conditions, Assumptions and Issues

The Committee uses the concept of an animal-unit-month (AUM) throughout the report. An AUM is the amount of forage consumed by a cow-calf unit during one month. Other livestock are converted to the AUM equivalent. However, the concept is extended to recognize that with the forage the consuming animal unit also has use of a habitat, a place to live. This habitat includes the forage, watering facilities, fencing and other improvements necessary to make the range usable by livestock and to provide for control of the livestock.

INSTITUTIONAL GOALS

It is the objective of the Forest Service and BLM to contribute to the economic stability of individual ranch units to the fullest extent possible and consistent with protection of the resource and its long term productivity. This has resulted in establishment of policies which allocated grazing privileges based on:

A. Prior use;

B. Dependency, or the need for forage to round out a yearlong livestock enterprise;

C. Commensurability, the ability to carry livestock on home ranch lands during the time they were not on public lands; and

D. 10-year, renewable grazing privileges.

The effect of these actions is to maintain long term availability and use of public land associated with a given ranch unit. These provisions allow the operator to plan long-term enterprise development and investment.

COMMUNITY STABILITY

Grazing of livestock, under permit, on the Public Lands has a substantial impact on the rural communities associated with that grazing. The greater the percentage of land held in Federal ownership, the more the area or communities' basic economic activity relies on use of Federal land, and the greater the impact of Federal policies on the total economic activity and stability of those rural communities.

CONSERVATION AND ECONOMIC EFFICIENCY OF RESOURCE USE

Direct involvement in the development and long term use of land resources is generally considered to provide incentives for protection and economic development of the resource. Essentially, security of tenure provides the ability to plan ahead for a reasonable length of time with some degree of certainty.

RELATIONSHIP OF FEES TO TOTAL COMPLEX OF USES OF PUBLIC LANDS

Commercial enterprises using the public lands all pay fees which are intended to be the equivalent of fair market value. The only users exempt from payment of fair market value are those involved in individual or group activities primarily for personal enjoyment.

ADJUSTMENTS IN COST STRUCTURE NEEDED TO REFLECT GOVERNMENT REQUIREMENTS AND ENVIRONMENTAL ADJUSTMENT

It is claimed that there has been relative changes in the FS/BLM non-fee grazing cost over the private land leasing costs over the past eight years. The three most cited examples of increased cost to the rancher grazing on public lands are:

(1) Increased animal (sheep) losses because of restricted coyote control on public lands,

(2) Agency requirements for increased rancher participation in structure maintenance, and

(3) Agency requirement for increased participation of ranchers in grazing management practices.

If these claims were in fact true, then the next logical step would be to determine the magnitude of the cost change and make the corresponding corrections in the non-fee grazing cost which would increase combined federal grazing cost and reduce the base fair market value of $1.23 per AUM.

The fundamental basis for the claim of increase sheep losses due to predatation is the restrictions placed on some coyote control practices on public lands. While some individual rancher losses may have increased, there are no substantive data to quantify the claim. Also, the non-fee public grazing costs are weighted by corresponding AUM's for sheep and cattle and any increase in sheep cost would have liimted effect on the weighted average.

The Federal agency policy for rancher participation in maintenance of livestock facilities has not changed. There has however been an increase in the application of the maintenance policy in some range areas that previously were not fully affected by maintenance requirements. In recent years it has been BLM policy not to encourage the rancher to construct facilities on public lands because of possible multiple use management conflicts. Again, there are no quantifying data to support the contention that relative changes have taken place in the over-all project maintenance and depreciation costs between private and Federal grazing lands.

The third item relates to increased emphasis placed on intensive grazing management of rangelands and usually associated with some "system" of grazing control. These grazing systems or management plans usually require the movement of livestock several times during the grazing season between pastures to insure that multiple use objectives are met and the physiological needs of the desirable vegetation are taken care of. While some increased operating cost may be incurred there are direct compensating benefits to the rancher of increased stocking rate stability, decreased livestock conflicts with wildlife habitat requirements, improved range conditions and usually increased animal production. Increasing numbers of ranchers are leading the way in intensifying grazing management efforts on private lands so the condition is not unique to public lands. The costs and benefits to the public land user resulting from intensive management can not be identified in this review.

V. Existing and Suggested Alternatives For Fee Determination

The 1969 fee system (the current method used for grazing fee determination by the BLM and the FS) includes three major elements. The first is the economic model and data collection survey used to establish the fair market value fee level of 1966. Second is the ten year adjustment of grazing fees from previous levels to the fair market value level. Third, the procedure used to make annual adjustments in the fair market value.

THE ECONOMIC MODEL AND GRAZING SURVEY OF 1966

The economic model was designed to measure the value of grazing on public lands through a detailed comparison of grazing costs on public and privately owned leased lands. The model is based on the premise that the total on-the-range costs of grazing on public lands and on private owned leased lands should be equal and would represent a means for determining fair market value of public grazing. The public grazing fee would be the amount necessary to equalize the private land lease plus the on-range-cost of using the public lands.[4] In other words the public grazing fee would equal the private lease rate minus the difference in costs incurred in using public range versus private range.

The economic model, because it required only data from operating livestock

[4] Specific items compared for differences in the cost of grazing on public lands compared to private lands include: Lost animals, Association fee, veterinary, moving livestock to and from allotment, herding, salt and feed, personal travel to and from allotment, water, horse, fence maintenance, water maintenance, development, depreciation, other costs, and private lease rate.

production units eliminated most of the influence of non-livestock grazing related values, and only measured the level of total costs operators were willing to incur in leasing privately owned land for grazing purposes. The model specifically measures the different and varying requirements placed on the leasee or permittee by both the private and Government landowner. The model measured the value of contributions required by either landowner, including the requirement for construction, repair, replacement and maintenance of permanent improvements.

The data for use in the model were collected by the Statistical Reporting Service in 1966. Ten thousand (10,000) individuals were interviewed and over 14,000 questionnaires were completed. Interviewees included Forest Service and BLM grazing permittees, ranchers who leased private land, and lending institutions.

The data were analyzed by a Technical Committee composed of representatives of the Statistical Reporting Service, Economic Research Service, Forest Service, Bureau of Land Management, and the Bureau of the Budget (now Office of Management and Budget). The Technical Committee came to the following conclusions: first, the data did not provide a basis for differential feees between Forest Service and BLM. The data could be combined and single fee established for BLM and Forest Service grazing; two, the data did not provide a basis for establishing separate fees for cattle and sheep; three, the data and analysis provided a basis for a public land grazing fee of $1.23 per animal unit month.

The conclusion of the Technical Committee provided the basis for the establishment of $1.23 per AUM as the fair market value grazing fee level for 1966 on public lands in the West.

Ten Year Adjustment Period

In order to minimize the impact of adjusting from BLM's 33 cent fee in 1966, and Forest Service's average fee of 51 cents, a 10-year schedule was developed for adjusting to the $1.23 fee level. By spreading the increase in fees over a period of time, the initial impact of the fee increase on the permittees would be minimized and allow a normal adjustment to this increase. The Forest Service starting in 1969 would add 7.2 cents to the fee charged in 1966 for each of the next ten years. BLM would add nine cents to the fee charged in 1966 for each of the next ten years. The result would be that by 1978 both FS and BLM would be at the 1966 fair market value figure of $1.23.

Adjustments in Fair Market Value

Adjustments to the fair market value level of $1.23/AUM in 1966 were necessary to reflect changes overtime in the profitability of range livestock production and prevent future inequities between federal grazing fees and the value of the range forage for grazing use. The base fee was adjusted annually with an index of private grazing land lease rates for the 11 Western states. The private grazing land lease rate is the charge per head per month for pasturing cattle on privately owned lands. The actual values are converted to an index (1964–68=100) in order to measure the rate of change in this price series. The index is then applied to the 1966 base of $1.23.

The private land-lease rate was selected for the adjustment factor because: one, it was an existing and available data series; and two, it represented changes in the economic value of grazing use. It is representative of the economic value of grazing because it is established by the amounts livestock producers are willing to offer for the use of available private grazing lands. Given these conditions, it is expected that these offers represent the value of grazing to the livestock producers.[5]

Alternative Fee Systems

A number of alternatives have been suggested by various groups to update or adjust the base fair market value fee of $1.23. Although each proposal is different they all have the same basic concept. This concept is that adjustments in the base value ($1.23) should be related to changes in the price of the product and to changes in the price of inputs. The procedure intends that when the change in value (price) of products (beef cattle) is larger than changes in price of inputs (cost of production), then fees should increase. If the change in costs exceeds the change in product value, then the fee should decrease.

(BPI–PPI+100=CI)

This formula would replace the private land-lease rate formula for the necessary update adjustments for the 1966 base, and for lack of a better name is called the Combined Index. In this formula BPI is an index of the weighted average annual prices for beef cattle, excluding calves, for the 11 Western States. The base would be 1964–68=100. The Prices Paid Index (PPI) is an index of prices paid by farmers for commodities and srevices, interest, taxes and farm wages as collected and published by the Statistical Reporting Service, in "Agricultural Prices." The index would be adjusted to the base of 1964–68=100.

Another suggested alternative using the Combined Index as a replacement for the private land-lease rate would be that the data would represent a simple moving average. This would have the effect of reducing the impact of large yearly variations in the level of grazing fees.

A third suggested alternative would be to add the combined index to the currently used index of private land lease rates. In this formula, when divided by two, fifty percent of the change in the lease fair market value ($1.23) would result from the private land-lease rate index and fifty percent from the combined index.

[5] See Appendix Table 1 and 2 for charges resulting from the 1969 Fee System and the Source of Fee Increases.

Santini Formula

This set of alternatives uses the combined index, but also replaces the $1.23 base for fair market value in 1966 with other value(s) for 1975. The Santini formula would establish two groups of grazing lands based on carrying capacity of the public lands. The constant or base figure for Group I lands is $1.70 and for Group II lands $1.40 per animal unit month (AUM).

A version of the above, called the Modified Santini Formula, would make adjustments using the combined index, but the base would be $1.51, the average grazing fee charged in 1976 by BLM and FS.

The Hansen formula, which was contained in S. 3071, is the same as the Santini Formula except the Beef Price Index would be computed using prices for the 48 states and the PPI and the BPI would be a moving three-year simple average.

Economic Relief Formula

The economic relief formula (so named for lack of an alternative) uses the current formula based on $1.23 and the private land-lease rate index, with a separate analysis of the PPI and BPI or some similar indices, to trigger needed adjustments in the current fee due to stress economic condtions as indicated by the BPI and PPI analysis.

A number of other alternatives have been suggested to limit the impact of large changes in economic conditions. One suggestion was to limit the amount of increase that could occur in any period by a fixed percentage. Another suggestion was to incorporate a rolling three-year average into the existing formula.

Discussion

Most all of the alternatives proposed have merit, and suggest the interest and responsibility of users of and those interested in the use of the public lands. All of the alternatives proposed including the current system have advantages and disadvantages. In other words, there is no perfect lease arrangement, but only better or worse arrangements. This may explain the large variability of lease arrangements in effect around the country between landlord and leasee. Logic and reasonableness does, however, provide a basis for reducing, if not eliminating, conflict between interested parties. The task of this technical committee is to consider the alternatives in light of the economic criteria and recommend a method for determining a fair market value.

VII. Data Sources

A primary objective of this committee was to identify existing data sources, and/or refinements to existing data sources, and/or additional data that might be collected to enhance the present or alternative procedures for determining grazing fees.

A major concern at the external group meetings was the quality of the data

that are used to compute the index on private land lease rates. There was also concern about the components of cost that were included in the prices paid index, as well as a possible redundancy in the beef price index and the prices paid index.

PRIVATE LAND LEASE RATES

The Statistical Reporting Service, USDA currently obtains information on the average rate for pasturing cattle on non-irrigated privately owned land on a per head per month basis. The survey is a nonprobability survey; data is collected in March each year on a general Farm Report questionnaire. The table below indicates the number of responses to the question on pasturing cattle on privately owned non-irrigated pasture land for 11 Western states for the years 1967–75.

TABLE I.—*Number of responses by State by year to question on pasturing cattle on privately owned nonirrigated pasture land*

State	Year								
	1967	1968	1969	1970	1971	1972	1973	1974	1975
Montana	242	148	196	229	151	168	180	161	159
Idaho	123	73	104	88	85	89	69	57	77
Wyoming	72	56	50	44	45	29	28	81	64
Colorado	219	177			229	213	242	299	218
New Mexico	76	65	34	30	30	36	19	31	29
Arizona	17	14	17	15	10	15	10	7	4
Utah	80	71	85	104	95	129	84	72	60
Nevada		19		17	11	8	8	8	9
Washington	176	132	132	128	115	81	104	66	97
Oregon	198	142	158	143	72	72	120	67	89
California	138	95	98	132	148	130	125	63	119
Total	1,351	992	874	930	1,000	961	1,019	821	965

The SRS Farm Report Questionnaire is mailed to a non-probability general purpose list, including grain farmers, dairy farmers, fruit farmers, etc. In the 11 Western States, approximately 12,500 questionnaires are mailed in March. The question on pasturing cattle on privately owned non-irrigated land is summarized and provided to the Economic Research Service, USDA for analysis and publication. Forest Service, USDA and Bureau of Land Management, U.S. Department of Interior, use these data in adjusting the range forage index each year based on an average head-month rental of $3.65 for the 1964–68 period equal to 100. The adjusted RFI for each year is the 11-State average head-month rental for that year divided by the $3.65 AUM average.

DATA IMPROVEMENT

The Statistical Reporting Service currently has operational two mid-year probability surveys in the 11 Western States. One of the mid-year surveys is a cattle multiple frame survey that utilizes a list frame with a non-response follow-up. The second probability survey, known as the June Enumerative Survey, consists of land areas and identifies operations not covered by the list frame. About 10,800 multiple frame questionnaires were tabulated in nine Western States in 1975. In addition, the June Enumerative Survey, a probability area frame survey, which is conducted in the other two Western States, had approximately 1,700 survey questionnaires completed last year. If it is desirable to have the adjustment factor for the Range Fee Index to be on a probability basis, the vehicle is available to provide this type information. Questions that would be added to the mid-year survey are as follows:

All Non-Irrigated Grazing or Pasture Lands.

1. Average rate for pasturing cattle on privately owned land in this area this year per head per month _____

2. Do you personally rent privately owned non-irrigated pasture on:

(a) A per head per month basis? _____

(b) A per acre bases? _____

3. If yes, how many head of cattle are you pasturing this year on the privately owned non-irrigated pasture? _____

4. How many days will you have these cattle on the rented pasture? _____

5. Total rent paid for pasturing these cattle on privately owned pasture this year _____

The cost of adding these questions to the two surveys would be $20,000.

INDEX OF PRICES PAID BY FARMERS

The Index of Prices Paid by Farmers measures the average change in prices paid for commodities and services bought by farm families.

The index is made up of five major components. In terms of farm expenditures, the two most important components are the index of prices paid for commodities used in farm production and the index of prices paid for commodities used in family living. These two indexes comprise the Index of Prices Paid by Farmers for Goods and Services. The remaining three components of the Index are: (1) Interest charges per acre on mortgage indebtedness secured by farm real estate; (2) Taxes payable per acre on farm real estate; and (3) Wage rates paid to hired farm labor.

Two major indexes within the Prices Paid by Farmers Index are stratified further into 18 group indexes. The Farm Production Index is divided into 12 group indexes—feed, feeder livestock, seed, fertilizer, agricultural chemicals, fuels and energy, farm and motor supplies, autos and trucks, tractors and self-propelled machinery, other machinery, building and fencing materials, and farm services and cash rent. The Family Living Index is divided into six group indexes—food, clothing, housing, autos and auto supplies, medical and health, and education, recreation, and other.

As of June 15, 1976, the farm production component of the Index included 169 different commodity price series; the family living component 152 items—for a total of 321. Prices for 25 items are used in both family living and production indexes leaving a net of 296 separate price series. In the Family Living Index the medical and health and education, recreation, and other indexes are based on Consumer Price Indexes from the Bureau of Labor Statistics, and are excluded from the commodity price series count.

Price data used in the computation of the various indexes are collected largely by mail from independent and chain stores serving rural areas. Separate commodity price estimates are made for independent and for chain stores as of the 15th of the quarterly month. These separate price estimates are weighted together to obtain averages of prices paid by farmers for most family living and farm production items. In other months, prices are estimated only for chain stores which provide the basis for current index computations for the interquarterly months.

The U.S. commodity prices are computed by weighting State estimates of average prices by the estimated quantities of products purchased by farmers in each State. U.S. average prices are then combined into the group indexes, using as weights the estimated quantities of the individual commodities purchased by farmers based on a 1971–73 surveys of farmers' expenditures. Official data of the Agricultural Research Service and the Agricultural Marketing Service are also used to supplement the survey indications.

Group indexes are combined into their respective family living and production indexes, using percentage weights representing the estimated proportion of expenditures of farmers for each commodity group. These also were derived primarily from the 1971–73 Expenditure Surveys. The family living and production indexes are in turn combined into the all-commodity index of prices paid, using weights representing the proportionate expenditures for these two segments. In like manner, all commodities, interest, tax, and wage rate components are weighted, on the basis of relative expenditures, for the index of Prices Paid by Farmers.

DATA REFINEMENT

If certain components of the index of prices paid were needed to comprise a new index to reflect cost of production of cattle producers in the United States, the Statistical Reporting Service could provide such an index. Possible components to use in indicating cost of cattle production from the Index of Prices Paid are motor supplies, motor vehicles, farm machinery, farm supplies, building and fencing materials, interest per acre and wage rates. Weights could be derived from the 1975 Meat Animals Cost of Production Survey conducted by SRS for the Economic Research Service. Data from this survey are currently being summar-

ized by ERS and should be available for analysis by January 1, 1977. The new index could then be used in a combined index formula. One such formula would be to subtract the Prices Paid Index from a Beef Price Index. The resulting combined index multiplied by a base fee would result in the annual grazing fee. This, or some derivative, to determine an annual grazing fee, is possible to compute if such a formula were used.

BEEF CATTLE PRICE

Monthly, the Statistical Reporting Service publishes an all beef cattle price for all States and for the U.S. This price is comprised of a weighted average of (1) steer and heifer prices and (2) slaughter cow prices. An allowance, if necessary, is made for slaughter bulls. Data used in making these commodity estimates includes prices from market news sources, tabulated auction sales data and survey data from individual farmers.

State data are then weighted by historic beef cattle marketings, by month, for each State to establish the monthly beef cattle price for the U.S.

The Statistical Reporting Service can provide the annual average price for beef cattle and lambs for any grouping of States. Final State prices are weighted by marketing data. Groupings of 11 States and 15 States have been made available to Forest Service and BLM for many years, for administrative use only. Final annual average prices by States are published in the February issue of *Agricultural Prices*. The April issue contains U.S. averages.

VII. EVALUATION OF VARIOUS FEE FORMULAS

With a history of a market economy for all other products and resources used in agriculture, the obvious solution to the problem of pricing public grazing would be to open it up for competitive bidding. After all competitive bidding would extract the full fair market value of public range for the public coffers. It would allow all citizens to compete for the use of the resource, and at the same time keep our public ranges producing beef and mutton. In addition, resource use and product output would be at its marginal value product level, and the public good would almost certainly be served by the resultant competitive conditions.

However, a competitive bidding system would presume a relatively free and competitive market, a condition that does not exist for many users and potential users of public grazing on BLM and National Forests lands. Institutional goals, tenure arrangements, legislative requirements and management restrictions of the National Forest System and Taylor Grazing Districts effectively eliminate a competitive environment. The location of grazing allotments, property boundaries, terrain, and water development further reduce the competitive environment. It has been estimated that as much as twenty percent of BLM land is "captive" in that it would be difficult if not impossible for any other livestock operator to use certain public land tracts. Other lands are grazed in common by a number of livestock operators and should not be broken up into separate allotments.

Thus, the competitive bidding system appears infeasible as the necessary conditions for an operational system does not exist, less efficient administered pricing schemes must be considered. In each of these pricing methods the objective is to simulate the competitive bid by employing "proxi" variables derived from the competitive environment of the livestock industry.

It is the task of this Technical Committee to attempt to recommend the proper "proxi" for the competitive bid. Attention will be directed to the Index of Private Land Lease Rates and the Combined Index (BPI–PPI). The committee will also comment on the two tier fee system proposed in S. 3071.

INDEX OF PRIVATE LAND LEASED RATES

This method may be best described as the comparative market approach. It is based on the premise that an individual will not pay more for the use of a resource than his next best alternative, or conversely, the owner of a resource should receive a value equivalent to that which could be realized from the next best alternative use of that resource. Using this premise the public grazing fee should equal the private grazing rate, less the difference in the cost of using public range over private range. In the grazing fee formula, the absolute level is ignored and only the rate of change over time is used to update the base fee of $1.23 for 1966.

The use of the comparative market approach has considerable merit. First, its value is derived from the competitive environment. Second, it theoretically measures changes in efficiency of range resource use over time. Third, it should give a close estimation of the fair market value that would be obtained under a competitive bidding system. Thus, it would also fulfill the criteria of the "ideal" pricing system. Fourth, it reflects changes in the level of economic parameters such as the inflation rate, purchasing power of the dollar, and the value of farm real estate.

Critics of the Index of Private Land Lease Rate point out that land prices and net rents have a strong functional relationship. They argue that land prices on a per acre basis have increased six fold during the last 30 years, while net farm income per acre has shown no distinct trend during the same period. This behavior is hypothesised to be related to pressure for farm and ranch enlargement. Because land is a limiting resource an increasing portion of net farm income is being capitalized into the land resource. Active farmers and ranchers attribute near zero value to their labor, management, and some of their invested capital in order to pay for land, thus violating the equimartinal principal for resource valuation.

Another argument against the Index of Private Land Lease Rates is directed at the accuracy of the data. It is argued that the data represent non-livestock uses. Others point out that typical leases in the private sector are not negotiated on a head month basis, and that those responding to the survey question are not making proper transition from the actual existing lease to the head month lease basis.

The position of the Technical Committee is that the Index of Private Land Rates is a good indicator of long term adjustments taking place in western range livestock industry. It duplicates economic adjustments in the competitive sector, and is the only alternative suggested or discussed that incorporates measures of technical efficiency. Improvements made in the data collection process and discussed in the previous section should eliminate concern about the relevancy and accuracy of the data. However, the Technical Committee is concerned about the ability of the Index to reflect short-run instabilities that result during periods of disequilibrium. In the past the Index has failed to account for short-run adjustments in resource valuation.

COMBINED INDEX

This formula consists of the Index of Beef Prices and the Prices Paid Index. The formula was suggested by the American National Cattlemens Association (ANCA) and is usually referred to as the parity formula or the "ability to pay" formula. Several slightly differing versions have been offered but the Combined Index has been the nucleus of all of the proposals.

The goal of parity in the past was generally ridiculed by economists as not meaningful. But parity as defined in terms of equal resource returns should be close to their hearts after all the concept of "equal resource returns" is a primary condition defining the most efficient allocation of resources in the competitive market. When all factors are employed so that marginal returns to resources are equated within the industry and between agriculture and the nonfarm economy, maximum output of goods and services are obtained.

A second source of support for the combined index is related to economic stability. Returns to resources in the long-run have demonstrated an efficient agriculture and in particular beef cattle. However the cattle industry has shown a considerable degree of instability in the short-run return to resources. The instability results in windfall gains and losses to both the government and the ranchers alike.

Critics of the combined index insist that the formula is not directly measured in the competitive market, and consequently contains no measures of long run efficiency in resource use. It is based on the premise of constant purchasing power or constant relative income and does not allow for resource adjustment. A second part of the above argument is the cost of alternative or substitute inputs are not considered and thus it is not a fair proxi for the competitive market.

The formula has also been criticized for containing elements in the indices which are not used in western range live-

stock production (e.g. seed, fertilizer, and etc.). It was pointed out in the previous section on Data Sources that these elements could be deleted from the prices paid index and proper weights be reassigned from the cost of production study currently in progress by thhe Economic Research Service and the Statistical Reporting Service.

The third major criticism relates to the fact that the index does not respond to the inflation rate or the value of the purchasing power of the dollar. If the combined index were used as the only method of adjusting grazing fees, the public would receive a declining real rent in the long-run. In effect the rent that the rancher paid for the use of the resource would only be at "fair market value" in the base period.

The Technical Committee noted the shortcomings as well as the advantages of the combined index. The index was recognized as a poor indicator of long-run adjustments because of the behavioral nature of indices measuring differing sectors of the supply-demand model simultaneously. For this reason the committee rejected the use of the combined index as the sole adjustment factor in any grazing fee formula. However, the committee also recognized the inability of the index of private land lease rates to measure short-run instabilities particularly in an environment where the value of value of the resource (public grazing) is a derived demand from the product it produces (beef and lamb). Therefore the committee concluded that the range fee formula should include factors that measure changes in the value of the range resource in both the long-run and the short-run.

THE TWO TIER SYSTEM, S. 3071

A procedure requiring the establishment of two levels of grazing fees based on the number of acres required for one animal unit month has been proposed by the Public Land Council and was outlined in S. 3071.

The variable fee hypothesis suggests that the value of native rangelands for livestock grazing is directly related to only one element of the lands, the density of desirable vegetation. If rangelands had no other characteristics and ranching operations were all the same, this hypothesis might be a reasonable assumption. However, these Federal rangelands have many features and conditions, some constant and some changeable, that affect their economic value to the individual stockman. Forage quantity, as a component of grazing value, varies in terms of quality from place to place and from season to season. These variations do not directly change the relative dollar value of the grazing since availability and cost of alternative feed sources for each individual rancher also impact on the economic value of the native forage to the livestock producer.

As an example of conditions that do not support the variable fee argument consider: (1) Grazing capacity allowance for livestock may be reduced to accommodate wildlife and wild horse habitat needs and therefore would not relate directly to forage quality or land productivity. (2) Intraallotment differences in forage production and grazing conditions are just as variable as interallotment differences. (3) Livestock water may be the limiting factor on some rangelands and not forage quantity and (4) Winter ranges (usually of low productivity) may have greater economic value to the stockman than summer ranges (usually of higher productivity) because the alternative is to feed expensive hay.

In setting up the 1966 Western Wide Grazing Fee Study, there was then as now a strong belief by some that a variof one or more of the qualitative variables such as grazing capacity, season of use, geographic area, or vegetative type. One of the conclusions of the study was that there was no basis for recommending differential base fees among ranching areas.[6] An independent analyses by the BLM during 1967 identified that there are larger user-cost differences between ranchers within any categorical grouping than between the groups.[7] In essence, there was no statistical evidence in the study to support a variable fee. The Arthur D. Little Company, Inc., made an independent statistical analysis of the BLM and private grazing survey data. The results of this independent analysis supported the previous findings.[8]

The suggestion that an inequity is created when the same grazing fee is charged for grazing on high productivity land as for low produetivity land is misleading because the unit of measurement for public land grazing is an animal unit month and not an acre of land. Also, there is no analysis available that the committee is aware of to support using 11 acres per AUM as the proper economic value point for dividing rangeland values for livestock grazing. The definition appears to be arbitrary and without foundation for establishing fees on public lands.

Under existing law and Executive policy a variable fee system is permitted but is not required unless specific inequities can be documented. Most of the questions and issues regarding grazing fees are related to managerial judgments and general economic factors more fundamental than public land user charges. Basically, the AUM and hence its general market value are the same from area to area since the grazing requirements of the animals are met and the yearly production cycle of the ranches are maintained. To recognize and differentiate public land grazing fees on the basis of detailed individual differences would require individual negotiation of fees with each of the 25,000 individuals using public lands.

[6] Housemen, Earl E., et al., "Special Report on Grazing Fee Study", USDA, Statistical Reporting Service, Oct. 24, 1968.

[7] Progress Report on Grazing Fee Study as of August 1, 1967, USDI, Bureau of Land Management.

[8] Arthur D. Little, Inc., "An Analysis of Western Livestock Grazing Costs, A Report to USDI," June 1967, Case No. 69463.

VIII. RECOMMENDATIONS

Establishing a grazing fee formula which is completely acceptable to the various management agencies and the users of Public Lands is a difficult task. It must accurately reflect the value of the resource and still take into account institutional restrictions and goals. Given the inability of economics as a discipline to aggregate individual utilities onto a single function, the next best alternative appears to be a "proxi" for the norm of economic efficiency. In the absence of a better criteria this value judgment will have to be acceptable.

Because a competitive environment does not exist, and can not exist given the current institutional constraints and goals, the members of the Technical Committee recommend the following formula as a proxi for the competitive market bid for grazing on an AUM basis:

$$FMV = A\left(\frac{L+P}{100}\right)$$

FMV—Fair Market Value for public grazing.

A—$1.23 base established from 1966 survey.

L*—Index of Private Land Lease Rates.

P**—Combined Index (BPI–PPI).

*The data for construction of this index should come from the probability based combined list frame sample described in Section V.

**BPI is a weighted index of average annual beef cattle prices less calves in the 11 Western States. PPI is an index of prices paid for inputs and would include only the seven items listed in Section V, and weighted by the Cost of Production Survey.

This formula is recommended as it provides for a consistent and efficient method of pricing the public grazing resources. The formula will reflect long-run trends in grazing values while at the same time accounting for short-run instabilities in either livestock prices or input prices. The committee has further recommended an improvement in the data collection procedures on the private land lease rates. Some modification was also suggested for the prices paid index to make it more accurately reflect western range livestock operation.

The Technical Committee has recommended the above grazing fee formula on its logical consistency. The data recommended for construction of the indices are not available for testing at this time. However it was assumed that the values for private land lease rates to be collected using the recommended improvements would be identical to the current data methods because the values will come from the same universe. Therefore the value of $3.65 from the base period of 1964–68 would continue to be the proper base for the index of private land lease rates.

It is further recommended that the mechanics of the formula be developed in detail by a work group staffed by members of the Forest Service and the Bureau of Land Management. The committee believes an upper limit of 25 percent could be imposed in the event of changes in economic conditions that

would force a sudden increase in grazing fees. Other mechanics are at the discretion of the management agencies.

TABLE 2.—*1969 fee system—Fair market value and fees actually charged*

[In dollars per AUM]

Year	Fair market value	National forest fees		BLM fee
		Average	High and low	
1966	1.23	0.51	1.64-0.19	0.33
1968		.56	1.80-.21	.33
1969	1.25	.60	1.25-.31	.44
1970	1.29	.60	1.25-.31	.44
1971	1.36	.78	1.36-.53	.64
1972	1.37	.80	1.37-.55	.66
1973	1.41	.91	1.41-.68	.78
1974	1.54	1.11	1.54-.92	1.00
1975	1.96	1.11	1.54-.92	1.00
1976	1.94	1.60	1.94-1.45	1.51

TABLE 3.—*Source of increase in fees*

[In dollars per AUM]

	National forests to		BLM to	
	1976	1980	1976	1980
1966 base value	0.51	0.51	0.33	0.33
Sum of incremental adjustments	[1].38	.72	[2].47	.90
Sum of adjustments by private grazing land lease rate index	.71		.71	
Total fee	1.60	1.23	1.51	1.23

[1] 4 at 0.072 plus 1 at 0.09 equal 0.38.
[2] 4 at 0.09 plus 1 at 0.11 equal 0.47.

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federal register

FRIDAY, FEBRUARY 4, 1977

PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

COLOR ADDITIVES

Provisional Regulations; Postponement of Closing Dates

Title 21—Food and Drugs

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

[Docket No. 76N-0366]

PART 8—COLOR ADDITIVES

Subpart—Provisional Regulations

POSTPONEMENT OF CLOSING DATES

The Food and Drug Administration (FDA) is postponing the closing dates for the use of 52 provisionally listed color additives. The postponements are conditioned on the undertaking of appropriate scientific investigations and the submission of data to FDA on a prescribed schedule. This order is effective January 31, 1977.

The Commissioner of Food and Drugs proposed, in the FEDERAL REGISTER of September 23, 1976 (41 FR 41860), to postpone the closing dates for the use of certain provisionally listed color additives beyond December 31, 1976, conditioned on the undertaking of appropriate scientific investigations and the submission of data to FDA. The Commissioner proposed to prescribe the required scientific investigations and other procedures for these provisionally listed color additives in new § 8.505 (21 CFR 8.505). The proposal was part of the Commissioner's publicly stated commitment, published in the FEDERAL REGISTER of January 5, 1976 (41 FR 754), to make final determinations about "permanent" listing on as many of the provisionally listed colors as possible and to take steps to resolve finally the status of each of the provisionally listed color additives.

In response to the proposal the Commissioner received 104 comments; they came from consumers, a consumer group, growers and producers of cherries, trade associations, and manufacturers and users of color additives. The comments received and the Commissioner's responses to them are summarized below.

1. Several comments from consumers and a consumer group objected to continued provisional listing of any color additive on the ground that manufacturers and users have had sufficient time since enactment of the Color Additive Amendments of 1960 to establish the safety of all color additives. The comments said that any color additive that has not been proved safe by now should be removed from the provisional list and its use should be prohibited.

The Commissioner advises that various factors have prevented quick decisions about "permanent" listing of certain provisionally listed colors. Three factors—the time needed to do studies on the additives, a legal challenge to FDA authority over cosmetic ingredients, and changing scientific standards for the evaluation of food and color additives—account largely for the delay. These factors are further discussed below.

The regulation below results from the Commissioner's commitment to "close the books" on the provisionally listed color additives. The regulation prescribes both a schedule for the prompt resolution of the status of each provisionally listed color additive and procedures to ensure that the schedule will be followed.

The process of resolving the status of each provisionally listed color additive began with a comprehensive review by FDA scientists of all available data on each provisionally listed color additive. The review was conducted to determine whether the data on any of the provisionally listed color additives supported "permanent" listing, termination of the provisional listing, or requirements to submit additional data. This review led to the termination of the provisional listing for FD&C Red No. 4 and carbon black, by notices published in the FEDERAL REGISTER of September 23, 1976 (41 FR 41852, 41857), and the "permanent" listing of 20 color additives by notices published in the FEDERAL REGISTER between September 23 and November 30, 1976.

The review also led to the conclusion that, while the data did not appear to establish a basis for concern about the safety of the remaining 52 provisionally listed color additives, the available data, evaluated by contemporary standards, do not support "permanent" listing at this time. The regulation prescribes the requirements for testing and a schedule for submission of the results of that testing to FDA and will enable FDA to resolve the status of the remaining provisionally listed color additives. As stated above, three factors largely account for the continuation of the provisional list today. The Commissioner believes that it is important for the public to understand the historical reasons for the continuation of the provisional list.

Congress initially established a closing date for the provisionally listed color additives 2½ years after the effective date of the Color Additive Amendments of 1960 (July 12, 1960). The 2½-year period was chosen based on the expectation that that period would be adequate to conduct the necessary testing on all color additives then in commercial use and, under the terms of the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618, 74 Stat. 404-407 (21 U.S.C. 706 note)), entitled to be provisionally listed. In fact, however, the 2½-year period established by Congress was too brief to permit the completion of necessary scientific investigations, including some chronic animal-feeding studies which run 2 to 3 years, and evaluation of those studies by FDA. Thus, it was almost inevitable that extensions of the closing date for certain of the provisionally listed colors would become necessary even if there had been no change in scientific requirements based upon improvement in scientific testing and evaluation techniques.

When the initial closing dates for the provisionally listed color additives occurred in January 1963, it was necessary to postpone the closing dates. This was because some chronic feeding studies were incomplete and additional chemistry data were required to establish specifications for the provisionally listed color additives. In several instances, postponements were necessary because precise assay methods had not yet been validated. In short, the gaps in the data on these color additives generally did not go to the central question of their safety for human consumption. Although the missing data obviously were needed before final determinations about "permanent listing" could be made by FDA, continued provisional listing for these color additives was consistent with the intent of Congress in providing for the provisional list. Extensions of the provisional list were also granted in a few instances because equivocal results were obtained from chronic feeding studies that required additional long-term study to resolve. This was the case, for example, with FD&C Red No. 4.

A second factor contributing to the several postponements of the closing dates for certain provisionally listed color additives was the unsuccessful efforts of FDA to obtain information about the formulation of all cosmetic products in which color additives were used. These efforts began formally in March of 1966 when former FDA Commissioner James Goddard, M.D., advised the Toilet Goods Association (the predecessor to the Cosmetic, Toiletry, and Fragrance Association) that the so-called "Harvey list" color additives, 21 in number, could not be listed "permanently" without information on the formulations in which the color additives were used. Further consideration of "permanent" listing for the provisionally listed color additives was held in abeyance pending litigation on the issue whether FDA had legal authority to require premarketing clearance of finished cosmetic products. In 1969, the United States Court of Appeals for the Second Circuit held that the provision of the color additive regulations requiring premarketing clearance of finished cosmetic products was not authorized by section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376) (*Toilet Goods Association* v. *Finch*, 419 F.2d 21 (2d Cir. 1969)). The Food and Drug Administration did not appeal this decision. Subsequent consideration of the 21 "Harvey list" color additives in light of changed scientific standards for the evaluation of food and color additives resulted in demands for additional data on these and the other provisionally listed colors, and in further postponements of the closing dates for them.

The most important reason for the several postponements of the closing dates for the provisionally listed colors is the dynamics of scientific criteria for the toxicological evaluation of chemical substances. The tools for the safety evaluation of products have greatly improved since 1960. Thus, a color additive first proposed for use today would be studied to determine the potential of the color to induce cancer, effects on reproduction or the fetus, and other types of toxic effects. The scientific techniques for assessing and evaluating these effects are far more sophisticated than those commonly employed in the 1960's. To assure that the

safety of the provisionally listed colors had been evaluated in accordance with contemporary scientific standards before they were listed "permanently," FDA has imposed additional requirements on the sponsors of the additives as significant scientific improvements have occurred. These requirements were imposed as a condition of continued provisional listing. As a result, FDA knows substantially more about the toxicity of most provisionally listed color additives than would be the case had decisions about "permanent" listing been made in the early 1960's.

The scientific investigations and tests prescribed in this regulation conclude a process that has been underway for some time, albeit concededly in a less systematic and vigorous fashion. This process of updating the data on the safety of food ingredients—food additives, substances generally recognized as safe (GRAS), and color additives—as scientific standards for evaluating the safety of such products improves, will continue as long as science remains dynamic.

2. Two comments, one from a consumer and one from a consumer group, asserted that the proposed extension of the provisional list is not authorized by the Federal Food, Drug, and Cosmetic Act and is contrary to the intent of Congress in enacting the Color Additive Amendments of 1960. The comments further implied that the 52 provisionally listed color additives are unsafe.

In paragraph 1 of this preamble, the Commissioner discusses the primary reasons why the provisional list has been extended since 1960. The Commissioner believes that previous extensions were granted for valid reasons and, though Congress probably did not anticipate in 1960 that color additives would be provisionally listed in 1976, further extension of the list is nonetheless consistent with the overriding objective of Congress in enacting the amendments—to have the safety determinations on color additives made on the basis of the best available data.

The implication in the comments that the 52 colors subject to this regulation have not been tested is erroneous. Delays both by sponsors in submitting necessary data to FDA and by FDA in evaluating those data and advising the sponsors of those evaluations have concededly contributed to the necessity for extensions of the provisional list. As indicated in paragraph 1 of this preamble, however, the scientific investigations previously required or required by this regulation as a conditon for continued provisional listing are necessary primarily because of improving scientific standards for evaluating the safety of substances added to food, drugs, and cosmetics. The Commissioner concludes that continued provisional listing for the 52 color additives is consistent with the objectives of Congress in enacting the amendments in 1960 and the agency's responsibilities to protect the public health.

3. One comment contended that the proposal was inadequate because it failed to disclose the empirical data and underlying considerations for the proposed actions, as required by the Administrative Procedure Act, (APA) (5 U.S.C. 553) and the case of "National Welfare Rights Organization v. Mathews," 553 F. 2d 637 (D.C. Cir. 1976). The comment cited as particularly deficient the Commissioner's conclusion that continued use of the 52 provisionally listed colors under the intended conditions of use would not present a hazard to the public health, and the comment asserted that the Commissioner's conclusion, without citing the empirical data and underlying considerations on which it is based, will deprive a court of an adequate administrative record to review the final regulation. Finally, the comment contended that FDA should issue a "more informative" proposal to comply with the requirements of the APA.

The Commissioner has carefully considered the "National Welfare Rights" case cited by the comment, as well as other pertinent legal authority, and concludes that the proposal complies with the requirements of the APA. The preamble to the proposal, the substantial background material, including toxicological reviews of many of the 52 color additives, which were placed on file with the Hearing Clerk, and publication of the proposal in the FEDERAL REGISTER adequately apprised the public of the basis for the proposed action and the underlying facts and considerations that support it. Furthermore, all the safety and functionally data on the 52 color additives have been available to the public under § 8.9(a)(1) (21 CFR 8.9(a)(1)).

The comment contended that the Commissioner's conclusion lacks empirical support and that this prevents intelligent comment or judicial review. The Commissioner's conclusions are based on review of the available data on each of the color additives and the application of standard scientific and toxicological criteria. It obviously is not practicable to reproduce the voluminous safety data on each color additive in the FEDERAL REGISTER, nor would a mere summary of those data enable interested persons to assess the validity of the Commissioner's conclusions. The Commissioner encourages persons who believe that any of the 52 provisionally listed color additives should not be so listed to review the safety data on any such additive and to petition FDA to terminate the provisional listing. Any such petition will receive careful and prompt review.

4. Several comments contended that color additives provide no "benefit" to the public and that their use is purely cosmetic and concluded, therefore, that their use should not be sanctioned by FDA. Other comments opposed the use of any artificial color additives and stated their preference for "natural" foods and food ingredients. One comment cited a recent Gallup poll in which the majority of the persons surveyed favored banning food (and presumably color) additives used only to improve the appearance of food.

A number of comments, on the other hand, supported the use of color additives in food. One comment stated that "We need some color in life. So what if it may be a bit risky. Humanity has lived with these things until this the 20th century." Other comments pointed out that their relatives have eaten colored food for years without suffering adverse effects and suggested letting the consuming public decide if it wants to eat colored foods.

The Commissioner advises that it is Congress that has made the judgment that color additives that have been proved safe should be permitted in food. The role of FDA under the Federal Food, Drug, and Cosmetic Act is not to make the value judgment about whether color additives are "beneficial," but rather to evaluate the data submitted in support of color additive petitions and to approve for use in food, drugs, cosmetics, and devices only those colors that it is reasonably certain are safe. In short, Congress has made the collective judgment that color additives are "beneficial" and should be permitted to be used if proved safe.

The Commissioner recognizes that consumers are not always in a position to decide for themselves if they wish to ingest foods that contain color additives or to distinguish among foods on the basis of the color additives that they contain. Congress, in the Federal Food, Drug, and Cosmetic Act, has permitted most foods to avoid specific labeling of the color additive used. The phrase "artificial color" in the ingredient statement on a food label complies with section 403(k) of the act (21 U.S.C. 343(k)). Thus, a consumer cannot ordinarily determine from a food's labeling which color additives it contains. Additionally, consumers are ordinarily not in a position to determine whether food served in restaurants, institutions, or in someone else's home contains color additives. Thus, it is essential for the protection of consumers that only those colors whose safety is established be permitted in food.

The Commissioner also advises that the absence of observed adverse effects in persons who have consumed food with added color for years cannot be taken as proof of the safety of those colors. Some adverse effects that occur from the ingestion of unsafe chemical substances appear only after many years of exposure. Observable adverse effects occurring immediately after ingestion are unusual. Furthermore, the casual observation of a small group of persons who appear to have suffered no ill effects from consumption of food with added color is not a proper scientific basis for extrapolation to the general population.

Finally, the Commissioner advises that "natural" foods and food ingredients are not necessarily safer than artificial ones. Many natural foods are harmful if ingested in sufficiently large quantities. Additionally, many synthesized ingredients are chemically identical to substances that occur naturally. In short, the notion that all natural foods are safer than all artificial foods is not supported by available scientific data.

5. One comment stated that FD&C Blue No. 1 and FD&C Green No. 3 are carcinogenic and objected to continued provisional listing for these color addi-

tives. In support of this position, the comment referred to pages 106–107 of "Environmental Cancers of the Urinary System" by Dr. Wilhelm C. Heuper. In that book, Dr. Heuper states:

> In view of the occurrence of bladder cancers in producers of widely used paper and food colors (the diphenylmethane dye auramine, and the triphenylmethane dye fuchsin), and of sarcomas of the subcutaneous tissue in rats after their subcutaneous injection (Case et al., 1954; M. H. C. Williams, 1958, 1962; Williams and Bonser, 1962; Walpole, 1963) and the reported occurrence of a bladder cancer in a German producer of Brilliant Blue, another triphenylmethane dye (Bundesministerium für Arbeit, 1957), adequate human and experimental evidence seems to be on hand for reassessing the significance of sarcomas of the subcutaneous tissue induced in rats by several triphenylmethane dyes.

Studies in which a substance is injected subcutaneously into test animals are not ordinarily considered appropriate tests to evaluate the safety of color and food additives. This view has been recognized by the World Health Organization and FDA's Advisory Committee on Protocols for Safety Evaluation (World Health Organization Technical Report Series (Geneva), No. 348, 1967; Toxicology and Applied Pharmacology 20:419, 1971).

Dr. Heuper also refers to a single reported incident of bladder cancer in a worker employed in a facility manufacturing "Brilliant Blue" in Germany. The sole authority for this reference is a 1957 German publication, which was not included with the comment and which is not readily available to FDA. In any event, the isolated report of cancer in an industrial worker dating back to 1957 is not suggestive of a potential for FD&C Blue No. 1 to induce cancer in man when ingested under ordinary conditions of use. The rate and conditions of exposure are different and, as noted, the incident was apparently isolated.

Finally, the chronic feeding studies on FD&C Blue No. 1 and FD&C Green No. 3, although inadequate by contemporary standards, do not suggest that either color may be a carcinogen. Without more substantial data to establish that either color is likely to be carcinogenic, the Commissioner concludes that continued provisional listing for FD&C Blue No. 1 and FD&C Green No. 3 does not present a hazard to the public health. New chronic feeding studies will be conducted on these two color additives under this final regulation as a condition of continued provisional listing. The results of those studies will permit the comment's hypothesis to be tested.

6. One comment objected to the proposed extension of provisional listing for various azo dyes and specifically named FD&C Yellow No. 5 and FD&C Yellow No. 6. Citing a reference from "Occupational and Environmental Cancers of the Urinary System," the comment stated that, according to Dr. Heuper, there is reason to believe that azo dyes contain various carcinogenic amines, including β-naphthylamine.

The Commissioner concurs with the comment's statement that β-naphthylamine is considered to be a carcinogen. Two colors, Ext. D&C Yellow No. 9 and Ext. D&C Yellow No. 10, which were synthesized from β-naphthylamine, were prohibited by FDA from use in drugs and cosmetics because of a finding that they might contain β-naphthylamine. Accordingly, the Commissioner views with concern the possibility that any color additive for food, drug, or cosmetic use might contain the impurity.

β-Naphthylamine is an intermediate that is used in the production of diazotized compounds for industrial use. These compounds are not, however, used in the production of colors intended for use in food, drugs, or cosmetics. β-Naphthylamine is not expected to be present in color additives, therefore, except as a contaminant. The Commissioner is unaware of any data that would indicate that FD&C Yellow No. 5 or FD&C Yellow No. 6 might contain any β-naphthylamine as a contaminant of the finished color or any of the raw materials or as a result of intermediate steps in their production.

However, upon further review of the data on each of the azo dyes, the Commissioner concludes that there are five colors that could possibly contain low levels of β-naphthylamine as impurities—D&C Red No. 10, D&C Red No. 11, D&C Red No. 12, D&C Red No. 13, and D&C Red No. 34. These colors are synthesized from 2-amino-1-naphthalenesulfonic acid which may contain β-naphthylamine.

To resolve the questions raised by this comment, the Commissioner has requested that the petitioners promptly provide to FDA data about the possible contamination of 2-amino-1-naphthalenesulfonic acid and each of the five colors with β-naphthylamine.

Furthermore, in view of the concern that β-naphthylamine may be present in the color additives, FDA has initiated immediate action to investigate the possibility. It will promptly conduct analyses of samples of each of the five colors and 2-amino-1-naphthalenesulfonic acid using very sensitive methods. The Commissioner is continuing the provisional listing for D&C Red No. 10, D&C Red No. 11, D&C Red No. 12, and D&C Red No. 13 because the short period of time required to resolve this question will not present a hazard to the public health. If data become available, either from investigation by FDA or from the petitioners, that indicate that β-naphthylamine may be present in any of the color additives, the Commissioner will take immediate action to protect the public health. The Commissioner advises that FDA is also examining the data on D&C Red No. 34, which was the subject of an order, published in the FEDERAL REGISTER of November 23, 1976 (41 FR 51592), "permanently" listing the color to determine if it might contain β-naphthylamine. The Commissioner will take immediate action to protect the public health if the data indicate that D&C Red No. 34 might contain β-naphthylamine. In the meantime, the Commissioner is staying the order "permanently" listing D&C Red No. 34.

7. Several comments objected to the use in food of any color additive that has not been proved "completely" or "absolutely" safe.

The Commissioner advises that while the objective of "completely" or "absolutely" safe color additives is a worthy one, it is beyond the capability of science to assure complete safety. There is always some risk, however slight, in using in food any substance—natural or artificial, color or other additive. In recognizing this, Congress has provided that FDA must be "reasonably certain" that a food or color additive will be safe when used as intended. Although FDA applies demanding scientific criteria to determine whether color additives are safe, it is not possible to be absolutely certain that consumption of any color additive or other ingredient poses no risk whatever to health.

8. Several comments questioned the basis on which FDA makes judgments about the safety of color additives. A metallurgist conducting research to define the carcinogenic constituents of industrial atmospheres suggested that unneeded alarm is caused by regulatory action taken without substantial experimental evidence. This comment also expressed skepticism about extrapolations made from data derived from tests in animals and applied to man. Another comment suggested that FDA bans substances used in food without justifiable cause and does so merely out of fear that they are carcinogens. The comment noted that test animals are customarily fed very high amounts of the substance being tested.

The Commissioner points out that the testing of substances such as color additives in animals to determine the probable effects of the substance in humans is a longstanding and generally accepted practice, especially for substances such as food and color additives that would ordinarily not be tested in humans. Although extrapolating from animal experience to human risk is an uncertain process, FDA must rely on animal tests as a predictor of the safety of new food ingredients in humans. The Commissioner advises that the test animals are fed seemingly high doses of the test substance to compensate for the lack of sensitivity of tests in relatively small numbers of animals to detect hazards among the much larger human population. Although this technique is not without its difficulties, it is widely employed by the scientific community and is generally accepted as appropriate.

9. A few comments contended that FDA should ban any substance suspected of causing harm.

The Commissioner disagrees. When a safety issue is raised about a compound that FDA previously has approved, the agency must review the question in a reasoned and scientific manner. This approach is rooted in common sense, because it is not difficult to raise questions about the safety of a food substance. If unevaluated questions produced an immediate and uncritical response, the nation's food supply would be in constant chaos, with products

continually being banned and, possibly upon reevaluation, later returned to the grocers' shelves.

10. A few comments suggested that FDA or outside laboratories, rather than the sponsors of color additives, should conduct tests on the provisionally listed color additives. In addition, FDA has received a request from the Cosmetic, Toiletry, and Fragrance Association (CTFA) and the Pharmaceutical Manufacturers Association (PMA) that FDA undertake the testing of 25 provisionally listed drug and cosmetic colors required by the regulation.

The Commissioner concludes that under the Federal Food, Drug, and Cosmetic Act, the primary responsibility for conducting (as distinct from final evaluation) studies to support product applications filed with FDA lies with the sponsors of those applications. Although FDA has, in the past, conducted some studies on color additives, it has not, since passage of the Color Additive Amendments of 1960, assumed the massive responsibility to conduct all such studies. The Commissioner believes that such an undertaking would be an inefficient use of the limited resources of FDA and that other, less costly ways of ensuring the reliability, accuracy, and completeness of submitted data are preferable.

For example, FDA is currently implementing a bioresearch monitoring program designed to audit and upgrade the quality of the studies conducted by testing laboratories and to ensure the basic integrity and reliability of the data submitted to FDA as a result of studies performed in these laboratories. The Commissioner is confident that this far-reaching program will improve the performance of nonclinical laboratories and assure a high level of compliance with the applicable legal and scientific standards. The request of CTFA and PMA and the Commissioner's response thereto are discussed in greater detail elsewhere in this preamble.

11. One comment opposed the use of all colors in foods because of the alleged relationship between ingestion of food and color additives and hyperkinesis in children. The comment called for the labeling of all ingredients used in food.

Behavioral disorders related to the hyperkinetic syndrome are found in children of all socioeconomic groups and in most countries throughout the world. A conservative estimate would be that moderate and severe disorders are found in as many as 3 out of every 100 elementary school children. More males than females appear to be affected. The major symptoms of the disorder are an increase of purposeless physical activity and a significantly impaired span of focused attention. The inability to control physical motion may generate other behavioral consequences. It has been suggested that there are several etiological subgroups within the syndrome.

In 1975, Dr. Ben F. Feingold stated in "Why Your Child is Hyperactive" that artificial colors and flavoring agents produce hyperactive behavioral symptoms in genetically predisposed children. In addition, Dr. Feingold concluded that total withdrawal of the artificial substances through the Feingold Kaiser-Permenente (K-P) diet can be of therapeutic value in the treatment of between 25 and 50 percent of the children with hyperkinesis.

While these reports are anecdotal, the possible relationship between food additives and the hyperkinetic syndrome in children is an important health issue that is currently being studied by various agencies within the Department of Health, Education, and Welfare and by outside groups. One recent study of the Feingold hypothesis was conducted by the Food Research Institute of the University of Wisconsin. The observations and data from this study are currently being collated and evaluated.

The Interagency Collaborative Group on Hyperkinesis (ICGH), composed of scientists from FDA, the National Institutes of Health, the National Institute of Mental Health, and the National Institute of Education, was established in the summer of 1975 to assess all the available data on the possible association between hyperkinesis and diet and to make recommendations for any additional research indicated. Scientists from FDA provided the leadership in organizing the ICGH and in the preparation of the First Report of the Preliminary Findings and Recommendation.

On February 23, 1976, the members of the ICGH prepared and approved three specific research proposals to carry out the recommendation of the report. The studies proposed were as follows:

(1) A Dietary Challenge Study of Artificial Food Colors and Flavors in Children (1 to 5 years old) with Behavioral Disturbances.

(2) A Dietary Challenge Study of Artificial Food Colors and Flavors in School-Age Hyperkinetic Children.

(3) Support to Obtain Data, Results and Interpretation of a Study of Food Additives and Hyperactivity in Children.

The Bureau of Foods, FDA, has provided $37,506 for the funding of study 3, and the National Institutes of Health has provided $106,800 for the funding of a challenge study in children ages 1 to 5 years.

The Commissioner notes further that FDA has consistently supported complete and more informative ingredient labeling of foods. For example, since 1941 FDA has required special dietary foods for infants to include the name of each ingredient, including colors, on the label; and FDA is exploring other ways to achieve complete ingredient labeling. The agency has also supported legislation that would require specific label designation of all colors in food. The Commissioner therefore concurs with the comment on this point and advises that FDA will continue to seek ways to provide more informative food labeling to consumers.

12. The majority of comments were on the action taken by FDA to terminate the provisional listing for FD&C Red No. 4, previously used to color maraschino cherries and short-term ingested drugs. These comments, mainly from cherry growers and industrial users of maraschino cherries, e.g., fruit-cake manufacturers, noted the adverse economic consequences that they assert will result.

The Commissioner advises that the potential adverse economic impact of the decision to terminate the provisional listing of FD&C Red No. 4 was fully considered before FDA acted. Representatives from the National Cherry Growers Association and the Maraschino Cherry and Glace Fruit Association met with FDA officials on several occasions before the action was taken. The Commissioner weighed the possible economic impact of the action but concluded that the Federal Food, Drug, and Cosmetic Act required that priority be given to considerations of public health. The basis for the agency action in terminating the provisional listing is explained fully in the FEDERAL REGISTER of September 23, 1976 (41 FR 41852).

13. One comment from a trade association contended that the available data on the 52 provisionally listed color additives are adequate to support "permanent" listing.

The Commissioner disagrees. These data were recently reviewed in light of contemporary standards by FDA scientists, who concluded that "permanent" listing for the 52 color additives would not be appropriate at this time. The comment offered no data in support of its argument, and it is therefore rejected.

14. The Certified Color Manufacturers Association (CCMA) has advised FDA that it will undertake the chronic feeding studies required under § 8.505(d) of this final regulation on FD&C Blue No. 2, FD&C Green No. 3, and FD&C Yellow No. 6. It has submitted a proposed protocol for these studies, which FDA has reviewed. Subject to a few minor changes, the proposed protocol is satisfactory to FDA.

15. In its comment, CTFA stated that it was reviewing the studies conducted on the D&C color additives and that it would advise FDA shortly of the results of the review. It stated that it would also suggest to FDA "how the body of information on the colors can be supplemented to permit a sound evaluation of their safety."

The Commissioner advises that, in his view, additional studies are required on the D&C colors to assure that they are safe on the basis of current scientific criteria. This does not mean, however, that the provision of additional data from studies already completed might not provide assurance of the safety of the color additives, assuming of course, that the data are derived from studies conducted in accordance with contemporary standards for the evaluation of food and color additives. If adequate additional data are provided on a particular additive, the Commissioner would delete the requirement for studies from the final regulation. The Commissioner emphasizes, however, that the time requirements in § 8.505 will not be altered, unless "extraordinary circumstances" are shown, either to permit submission of data or to allow for evaluation of those

data. The data must, therefore, be submitted to FDA as soon as possible and the requirements of § 8.505 complied with; failure to comply with § 8.505 will result in termination of the provisional listing of the affected color additive.

16. Several comments commended FDA for providing the public the opportunity to comment on the provisionally listed color additives and they generally supported the provisions of the proposal. Other comments supported further testing of food and color additives and the efforts of FDA to require such testing.

17. A number of comments were received from the petitioners for the 52 provisionally listed color additives. Some of the specific comments objected to certain proposed requirements, including the stringent time limitations for completion of studies; others stated that the requirements could be met by the petitioners. A few comments were accompanied by scientific data and literature submitted in support of the comments' assertion that the data on particular color additives were adequate to establish their safety and justify "permanent" listing.

The Cosmetic, Toiletry, and Fragrance Association, one of the petitioners for many of the 52 provisionally listed color additives, advised that the proposed requirements in § 8.505(a) pertaining to eye-area studies were reasonable. It stated that the results of those studies would be submitted to FDA within 45 days of the effective date of this final regulation and that the July 1, 1977 closing date for those color additives was appropriate as long as FDA promptly reviewed the final reports from the eye-area studies.

The Commissioner advises that high priority will be given to the review of the reports of data concerning the provisionally listed color additives. If those reports are received by the dates established in § 8.505 for their submission, FDA will make final determinations about "permanent" listing and issue notices implementing those decisions by the closing dates established in § 8.505. If the reports are not received in timely fashion, the use of the color additive will be terminated immediately.

18. The Certified Color Manufacturers Association commented that proposed § 8.505 appeared "to be written in such a fashion as to require that all co-petitioners agree to perform the steps requisite to satisfying the conditions and that all co-petitioners actually perform the studies." Because all co-petitioners may not share the same interests, the CCMA suggested that § 8.505 be revised to require that at least one petitioner for each color agree to perform, and actually undertake and complete the required studies.

The Commissioner concurs with this suggestion and § 8.505 is revised accordingly.

19. A comment from a trade association stated that adequate specifications for the color additives must be established before beginning any chronic feeding studies. It suggested that the closing dates for any colors that require resolution of chemistry deficiences, in addition to toxicological tests, should be calculated from the date of FDA approval of the chemical and analytical data. A comment from a consumer group contained a parenthetical statement that "it is appalling that for 17 years FDA has explicitly sanctioned the continued use of dyes without even knowing their chemical identity."

The Commissioner advises that, in general, FDA already has adequate knowledge of the identity of each of these colors and has established appropriate specifications. There remain, however, a few issues of identity of minor constituents of some colors that require resolution before the color additives can be listed "permanently."

In the case of graphite, for example, FDA is aware of literature references that indicate that certain types of graphite may contain polynuclear aromatics (PNA's). Because some PNA's are carcinogenic, the petitioner has been requested to supply data capable of demonstrating whether graphite contains PNA's. The Cosmetic, Toiletry, and Fragrance Association has submitted data from the analysis of one batch of graphite that indicated that no PNA's were found using an analytical method with a reported sensitivity of two parts per billion (ppb). The results of this analysis of one batch of graphite from one supplier are however, not adequate to establish the absence of PNA's. Additionally, other unresolved questions related to the analytical method remain. Because, however, there are no definite data that would indicate graphite is likely to contain some amount of PNA's, the Commissioner concludes that its provisional listing may safely continue for the short time necessary to develop and submit the necessary data for graphite.

The remaining eight color additives that require additional chemistry data are subject to certification. These colors are complex chemicals synthesized from various petrochemicals. The purity of the color additives ranges from 85 to 95 percent for the pure color. The remaining 10 to 15 percent is composed almost entirely of water and salts of chlorides and sulfates. In most cases the remaining small fraction of the color not accounted for by one of these substances has also been identified. Because of the complexity of the starting materials and their reactions, however, small amounts of reaction compounds that are not readily identifiable may be formed during synthesis of the color additive. The analytical data are necessary to permit identification of these compounds in color additives and to determine whether they were in the samples of the lots used for toxicological testing.

Pending resolution of these questions, the samples of each of the color additives used in the toxicological tests will be used as templates against which to judge the safety of these minor components. Occasionally, during the certification of a batch of a color, minor amounts of unknown substances are detected. The sample of the color used in the toxicological tests is then analyzed in the same manner to determine whether the unknown is also present. Thus, the toxicological sample serves as a "specification", i.e., a reference standard for judging batches being certified. During the brief period necessary to resolve the chemistry questions for the eight certified colors, the Commissioner concludes that continuation of provisional listing will not present a hazard to the public health.

The Commissioner rejects the suggestion that the closing date for those colors requiring both chemistry data and chronic toxicity data be determined from the submission of the former. Although the Commissioner would agree that the development of specifications of the test material before testing is ordinarily preferable, he does not agree that such an approach is appropriate in this case. The manufacturers of these colors are knowledgeable about their production and purification and will be able to reproduce colors that will comply with specifications developed from the toxicological samples, whether they be from the earlier studies or the new studies that are being required. The manufacturers are in the position to establish the purity of the color used for testing and, thus, its specifications.

20. The Cosmetic, Toiletry, and Fragrance Association questioned the need for a 90-day rabbit dermal study on bismuth oxychloride and submitted additional data to FDA in support of its position. It noted that the material on file with the FDA Hearing Clerk did not include a memorandum discussing the basis for the proposed requirement for the 90-day rabbit dermal study.

The additional data submitted by CTFA have been evaluated and are not adequate to resolve the questions about bismuth oxychloride which generated the proposed requirement. Accordingly, the requirement for a 90-day rabbit dermal study on bismuth oxychloride is retained in the final regulation. Bismuth oxychloride will continue to be provisionally listed pending receipt and evaluation of the studies required under § 8.505.

21. In its comment, Combe, Inc., the petitioner for bismuth citrate, stated that it was prepared to submit a protocol and conduct the short-term (90-day) absorption study in humans, in accordance with proposed § 8.505(b). Combe questioned, however, whether the proposed requirement for a 90-day rabbit dermal study would provide useful data on the safety of bismuth citrate and suggested deletion of the requirement. In support of its request, Combe submitted several articles from scientific journals discussing various aspects of the safety of bismuth citrate.

The Commissioner advises that the petitioner misconceived the purpose of the dermal study. The primary purpose of the study is to determine whether bismuth citrate is toxic when repeatedly applied topically. This study is particularly pertinent in the case of a color additive such as bismuth citrate which is

used in products intended for repeated topical use (hair dyes). The chemistry and analytical data submitted by the petitioner are useful but do not remove the need for the dermal study. The requirements contained in proposed § 8.505 pertaining to bismuth citrate are, therefore, retained in this regulation.

22. The petitioner for caramel questioned the need for subchronic and chronic dermal studies on the color additive. In support of this position, the petitioner referred to a letter received on April 12, 1976, from FDA advising that data for eye-area studies were necessary to permit a final determination to be made. The petitioner stated that the eye-area studies are currently being conducted. The need for dermal studies was questioned because of the absence of a statement to that effect in the letter received on April 12, 1976. The petitioner asked for a reexamination of this requirement.

The available data for caramel have been reexamined, and the Commissioner advises that those data are not adequate to support "permanent" listing of caramel for use in externally applied cosmetics. A 90-day rabbit dermal study and a lifetime mouse skin painting study are therefore necessary for caramel. The Commissioner concludes that the requirements for this color, set forth in § 8.505 (b) and (d) below are appropriate, and continued provisional listing of this color will be based on compliance with the requirements.

23. Three commentors, CTFA, CCMA, and Hilton Davis Chemical Co. asserted that they are not aware of the deficiencies in the chemistry data on the 15 color additives listed in proposed § 8.505(c) and that, without a comprehensive list of those deficiencies, they are unable to comment on this aspect of the proposal.

The petitioners for the 15 colors that require additional chemistry data have been advised repeatedly over the years of the specific deficiencies. The deficiencies were discussed at length in a meeting on January 29, 1976, with representatives of CTFA and Hilton Davis Chemical Co. Letters were sent to each of the petitioners on January 29, 1976, and February 5, 1976, outlining the various deficiencies. Subsequently, the petitioners and their designees submitted data to the Division of Food and Color Additives, Bureau of Foods, indicating that work had been initiated to resolve the various chemistry deficiencies. Meetings were held on March 18, 1976, and May 4, 1976, and at other times, to discuss the progress of this work. A letter was sent to the petitioners, dated May 14, 1976, updating the status of the chemistry data requirements for these 15 color additives. Subsequently, data were submitted for some of the colors. These data were, however, generally received too late for consideration in the drafting of the proposal. The correspondence with the petitioners detailing the chemistry deficiencies and memoranda of the meetings with the petitioners were placed on file with the Hearing Clerk, Food and Drug Administration, when the proposal was published.

The Commissioner concludes that the above-noted actions have provided sufficient notice to the commentors concerning the chemistry deficiencies for the 15 colors. Additionally, a letter has recently been sent to each of the involved petitioners commenting on the data they recently submitted and advising them of any additional data necessary to resolve chemistry deficiencies. Copies of these letters have been placed on file with the Hearing Clerk.

A review of the submitted data by FDA indicates that the data resolve the chemistry deficiencies for a number of colors, specifically: FD&C Yellow No. 6, D&C Red No. 27, D&C Red No. 28, D&C Orange No. 5, and logwood. The requirement for the submission of chemistry data for these five colors and for D&C Orange No. 11, which was inadvertently included in the proposal, is deleted from § 8.505(c) of the final regulation. The remaining 9 color additives—D&C Yellow No. 10, D&C Red No. 6, D&C Red No. 7, D&C Red No. 30, D&C Orange No. 4, D&C Blue No. 6, Ext. D&C Yellow No. 1, Ext. D&C Green No. 1, and graphite—continue to have deficiencies in the chemistry data that require submission of additional data to support their "permanent" listing. The Commissioner concludes that the time requirements in § 8.505 for the submission of these data, as originally proposed, are reasonable and they are retained in the final regulation. Under the regulation, one of the petitioners, or some other interested person through the petitioners, must agree by March 7, 1977, to conduct the necessary studies and must submit the required chemistry data and analytical methods to FDA by August 3, 1977. Continued provisional listing is conditioned upon satisfactory completion of these two requirements.

The closing dates for logwood and graphite have been extended to October 31, 1977, because of the time required to issue final regulations.

The closing dates for the color additives that require chemistry data and new chronic feeding studies have been extended to January 31, 1981.

24. On December 30, 1976, CTFA and PMA filed a request, denominated as a "citizen petition," with FDA under section 706 of the act (21 U.S.C. 376) and § 8.37 (21 CFR 8.37). They requested that FDA conduct the required scientific studies for 25 provisionally listed drug and cosmetic (D&C) color additives. On January 26, 1977, representatives of the associations met with FDA officials to discuss further their request.

The associations contend that FDA can best assure that the testing required by the regulation is done expeditiously and properly if it conducts the studies itself. The request notes that FDA would not be required to conduct all the studies in its own facilities, but could give contracts to independent laboratories to conduct certain studies.

A second aspect of the CTFA–PMA requests relates to the method of financing the required tests. The Commissioner's response to that aspect of the request is discussed later in this paragraph.

The Commissioner rejects the request insofar as it pertains to FDA's undertaking to conduct or arrange for the studies and advises that interested persons, not FDA, must be responsible for conducting the tests required by the regulation. The Commissioner acknowledges that in certain circumstances, which he is not persuaded exist here, it may be appropriate for FDA itself to sponsor toxicological testing on products it regulates. In fact, FDA has, in the past, conducted such studies on certain color additives. In recent years, however, FDA has not simultaneously conducted large numbers of toxicological studies on any compounds. Instead, that responsibility has been left to the proponents of the use of regulated products—in this case the petitioners for the 52 provisionally listed color additives.

The Commissioner believes that in this case the agency's limited resources can best be employed in monitoring the studies and in evaluating the results of those studies. A significantly greater expenditure of agency manpower, not compensable by increasing the certification fee, would be required if FDA were to undertake the responsibility for conducting the studies. Obviously, FDA facilities would be inadequate and arrangements would have to be made with independent laboratories to conduct some, if not all, of the studies. This in itself would require a substantial expenditure of agency resources.

The Commissioner recognizes that CTFA and PMA have offered to cooperate with FDA in ensuring prompt commencement of the studies, including the submission of test protocols, specifications, information, recommendations on independent laboratories, and assistance in monitoring the studies. Nonetheless, the Commissioner concludes that even with such assistance, the resources of FDA that would be required exceed those currently at the Commissioner's disposal.

The Commissioner notes also that there is no legal obligation imposed on FDA to undertake the studies. Although FDA has conducted such studies on occasion and may do so in the future, the Federal Food, Drug, and Cosmetic Act imposes the responsibility for testing on the sponsors of regulated products, not on FDA.

The Commissioner is aware that in recent years, numerous persons have argued that the overall quality, reliability, and integrity of studies conducted to support product applications filed with FDA would improve if FDA or some "disinterested" third party conducted the testing. The agency has expressed skepticism about this suggestion, believing instead that its role should be limited to establishing standards for the conduct of such studies, e.g., good laboratory practice regulations, monitoring the studies while they are in progress (through laboratory inspections), and evaluating the results of those studies. The Commissioner continues to maintain that the advantages of such a program would not justify the burdens on FDA

that would result from a "third party testing" approach.

Finally, the Commissioner notes that at the meeting on January 26, 1977 referred to above, both CTFA and PMA expressed a willingness to undertake the required studies if FDA concluded that it could not or should not assume that responsibility. However, CTFA and PMA also stated that the aspect of their request that relates to the financing of the studies can be considered separately and, in their view, is meritorious.

The two associations note that imposition of a research charge on the certification fee for the 25 provisionally listed color additives covered by their request would fairly distribute the cost of the testing. They point out that the higher certification fee charged to color manufacturers would be passed on directly to the users of color additives in the form of a higher price per pound. The associations also point out that a similar mechanism was used by FDA to finance the studies it conducted on color additives in the 1950's.

The Commissioner agrees that distributing the cost of required testing on regulated products among all who benefit from the products' availability (i.e., all manufacturers and users) is a desirable objective. However, the Commissioner has not fully evaluated the CTFA–PMA request nor have interested persons been afforded the opportunity to comment on the request. Accordingly, the Commissioner concludes that it would be inappropriate to act on the request at this time.

Because, however, the request does appear to have at least theoretical merit, the Commissioner believes that it would be advantageous to obtain the views of interested persons on the financing aspects of the CTFA–PMA request. In particular, the Commissioner solicits comment on the following questions related to the request:

a. Should the request be granted by FDA?

b. If so, how should the cost of conducting the studies be distributed? Specifically, should the same research charge be added to the certification fee for each color or should each color additives being tested "pay its own way"?

The views of interested persons on these questions and all other aspects of the request are solicited. To permit a prompt resolution of this matter, those views should be submitted to the Hearing Clerk, FDA, by March 7, 1977.

25. Three comments, all from trade associations, contended that the proposed closing date of December 31, 1980, for those provisionally listed color additives that require new chronic feeding studies was unrealistic. The comments questioned whether the petitioners or FDA could meet that deadline. The comments noted the possibility of unavoidable delays and difficulty in locating testing facilities and qualified personnel to conduct the studies. One comment stated that 42 months was not sufficient to conduct and evaluate the results of the studies and noted that "the FDA's proposed deadlines could be met only if all the necessary steps were accomplished without any unforeseen problems arising and with the imposition of an undue amount of pressure on the responsible parties." A closing date of June 30, 1981, was suggested by one of the comments.

The Commissioner concludes that the comments have not established that the December 31, 1980 closing date is unreasonable or unrealistic. The Commissioner agrees with the comments insofar as they recognize that conscientious, concerted, and forceful action will be necessary to meet the deadlines imposed by the final regulation. This was the Commissioner's intent in proposing the strict schedule in § 8.505. The Commissioner notes also that the strict schedule is applicable to both the petitioners and FDA. The period allotted for FDA to review the data and to make final determinations about "permanent" listing is very short and will require that the highest priority be attached to completion of that effort. The Commissioner believes that it is reasonable to expect that the same high priority will be given to this project by the petitioners. Final determinations on the provisionally listed colors can be made in a timely fashion only if demanding but realistic time requirements are imposed.

In the unlikely event that unforeseen and unavoidable circumstances arise to make compliance with the requirements of the final regulation virtually impossible, the Commissioner will consider requests for brief extensions of the closing dates. The Commissioner cautions, however, that such requests will be considered only if "extraordinary circumstances" exist and maximum effort has been given to meeting the deadlines.

The closing dates of July 1, 1977, September 30, 1977, and December 31, 1980, were proposed in § 8.505 (a), (b), (c), and (d) respectively, based on the Commissioner's expectation that the final regulation would be issued by December 31, 1976. Because of the unexpectedly lengthy time required to review the comments and the resulting delay in issuing this regulation, the closing dates established in § 8.505 (b), (c), and (d) have been extended for an additional 30 days. Thus, the closing dates in § 8.505 (b) and (c) will be October 31, 1977, and the closing dates in § 8.505(d) will be January 31, 1981. The closing date for the provisionally listed color additives that require eye-area studies under § 8.505(a) is retained at July 1, 1977, because those studies are underway and the petitioners have advised FDA that they can meet the proposed deadlines. Finally, all the deadlines imposed by § 8.505 have been computed from the date of publication of the final regulation in the FEDERAL REGISTER.

26. A requirement that progress reports be submitted to FDA on the chronic feeding studies required by § 8.505(d) was inadvertently omitted from the proposal. Section 8.505(d)(3) has been revised to require the submission to FDA of an initial progress report and further reports at 6-month intervals thereafter.

Having evaluated the comments and the data submitted with them, the Commissioner concludes that the extension of the closing dates for the provisionally listed color additives listed in § 8.501 subject to the conditions of § 8.505 is reasonable and in the public interest.

In accordance with the provisions of 5 U.S.C. 553 (d)(1) and (d)(3) this postponement is effective on January 31, 1977 so as to permit the uninterrupted use of the affected color additives.

Therefore, under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, 74 Stat. 404–407 (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 of Subchapter A of Title 21 of the Code of Federal Regulations is amended as follows:

1. By amending § 8.501 by revising the introductory text and the tables in paragraphs (a), (b), (c), (f) and (g) to read as follows:

§ 8.501 Provisional lists of color additives.

The Commissioner of Food and Drugs finds that the following lists of color additives are provisionally listed under section 203(b) of the Color Additive Amendments of 1960 (sec. 203(b), 74 Stat. 405 (21 U.S.C. 376 note)). Except for color additives for which petitions have been filed, progress reports are required by January 1, 1968, and at 6-month intervals thereafter. Specifications for color additives listed in paragraphs (a), (b), and (c) of this section appear in the respective designated sections. The listing of color additives in this section is not to be construed as a listing for surgical suture use unless color additive petitions have been submitted for such use or the Commissioner has been notified of studies underway to establish the safety of the color additive for such use. The color additives listed in paragraphs (a), (b), and (c) of this section may not be used in products which are intended to be used in the area of the eye. The color additives listed in paragraphs (a), (b), (c), (f), and (g) of this section are provisionally listed until the closing dates set forth therein, conditioned on compliance with the applicable requirements of paragraphs (a), (b), (c), and (d) of § 8.505.

(a) * * *

	Closing date		Restrictions
	Food use	Drug and cosmetic use	
FD&C Green No. 3 (§ 9.23 of this chapter)	Jan. 31, 1981	Jan. 31, 1981	
FD&C Yellow No. 5 (§ 8.275 of this chapter)	do.[1]	do.	
FD&C Yellow No. 6 (§ 9.41 of this chapter)	do.	do.	
FD&C Red No. 3 (§ 8.242 of this chapter)	do.[1]	do.	
FD&C Blue No. 1 (§ 8.206 of this chapter)	do.[1]	do.	
FD&C Blue No. 2 (§ 8.4022 of this chapter)	do.	do.	Food and ingested drugs.
Lakes (FD&C) (§ 9.100 of this chapter)			

[1] Lakes only.

(b) * * *

	Closing date	Restrictions
D&C Green No. 5 (sec. 8.4069 of this chapter)	Jan. 31, 1981	
D&C Green No. 6 (sec. 8.4070 (a) and (b) of this chapter)	do.	
D&C Yellow No. 10 (sec. 9.133 of this chapter)	do.	
D&C Red No. 6 (sec. 9.151 of this chapter)	do.	
D&C Red No. 7 (sec. 9.152 of this chapter)	do.	
D&C Red No. 8 (sec 9.153 of this chapter)	do.	Sec. 8.503.
D&C Red No. 9 (sec. 9.154 of this chapter)	do.	Do.
D&C Red No. 10 (sec. 9.155 of this chapter)	do.	Do.
D&C Red No. 11 (sec. 9.156 of this chapter)	do.	Do.
D&C Red No. 12 (sec. 9.157 of this chapter)	do.	Do.
D&C Red No. 13 (sec. 9.158 of this chapter)	do.	Do.
D&C Red No. 19 (sec. 9.164 of this chapter)	do.	Do.
D&C Red No. 21 (sec. 9.166 of this chapter)	do.	
D&C Red No. 22 (sec. 9.167 of this chapter)	do.	
D&C Red No. 27 (sec. 9.172 of this chapter)	Jan. 31, 1981	
D&C Red No. 28 (sec. 9.173 of this chapter)	do.	
D&C Red No. 30 (sec. 9.175 of this chapter)	do.	
D&C Red No. 33 (sec. 9.178 of this chapter)	do.	Sec. 8.503.
D&C Red No. 36 (sec. 9.181 of this chapter)	do.	Do.
D&C Red No. 37 (sec. 9.182 of this chapter)	do.	Do.
D&C Orange No. 4 (sec. 9.201 of this chapter)	Oct. 31, 1977	External use only.
D&C Orange No. 5 (sec. 9.202 of this chapter)	Jan. 31, 1981	Sec. 8.503.
D&C Orange No. 10 (sec. 9.207 of this chapter)	do.	
D&C Orange No. 11 (sec. 9.208 of this chapter)	do.	
D&C Orange No. 17 (sec. 9.214 of this chapter)	do.	Do.
D&C Blue No. 6 (sec. 9.242 of this chapter)	do.	
Lakes (D&C) (sec. 9.280 of this chapter)		

(c) * * *

	Closing date	Restrictions
Ext. D&C Yellow No. 1 (sec. 9.301 of this chapter)	Oct. 31, 1977	
Ext. D&C Green No. 1 (sec. 9.400 of this chapter)	do.	
Lakes (ext. D&C) (sec. 9.440 of this chapter)		

* * * * * * *

(f) * * *

	Closing date	Restrictions
Logwood	Oct. 31, 1977	Surgical suture use only.

(g) * * *

Color additive	Closing date	Restrictions
Aluminum powder	July 1, 1977	None.
Annatto	do.	Do.
Bismuth citrate	Oct. 31, 1977	For use as a color component in hair dye.
Bismuth oxychloride	do.	None.
Bronze powder	July 1, 1977	Do.
Caramel	Jan. 31, 1981	Do.
Carmine	July 1, 1977	Do.
Carotene	do.	Do.
Chromium hydroxide green	do.	Do.
Chromium oxide greens	do.	Do.
Copper, metallic powder	do.	Do.
Ferric ferrocyanide (iron blue)	do.	Do.
Graphite	Oct. 31, 1977	Do.
Guanine (pearl essence)	July 1, 1977	Do.
Lead acetate	Oct. 31, 1977	For use as a color component in hair dye.
Mica	July 1, 1977	None
Zinc oxide	do.	Do.

2. By adding new § 8.505 to read as follows:

§ 8.505 Conditions of provisional listing.

The closing dates for the use of the color additives provisionally listed in § 8.501 are postponed until the dates established in that section conditioned on compliance with the requirements of paragraphs (a), (b), (c), and (d) of this section, where applicable. The closing dates will not be postponed beyond the dates in § 8.501 unless extraordinary circumstances are shown. Requests for further postponement based on extraordinary circumstances shall be submitted in writing and state in detail the basis for the request. If the requirements of paragraphs (a), (b), (c), and (d) of this section are not complied with, the provisional listing for the color additive(s) involved will be terminated immediately.

(a) The closing date for the following 14 color additives is postponed until July 1, 1977, while 4-week eye area studies in the rabbit are conducted and evaluated, and subject to compliance with the requirements of this paragraph: Aluminum powder, annatto, bismuth oxychloride, bronze powder, caramel, carmine, carotene, chromium hydroxide green, chromium oxide greens, copper (metallic powder), ferric ferrocyanide, guanine (pearl essence), mica, and zinc oxide.

(1) At least one petitioner for each of the 14 color additives listed in paragraph (a) of this section shall agree in writing by March 7, 1977 to undertake the eye area studies.

(2) A full written report of the results of the studies shall be submitted to the Division of Food and Color Additives, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, by March 21, 1977.

(3) The petitioners undertaking the studies shall immediately notify the Division of Food and Color Additives of any findings that indicate a potential for the color additive to cause adverse effects.

(b) The closing date for bismuth citrate, bismuth oxychloride, caramel, and lead acetate is postponed until October 31, 1977, while short-term studies are conducted and evaluated, and subject to compliance with the requirements of this paragraph.

(1) At least one petitioner for each of of the four color additives listed in paragraph (b) of this section shall agree in writing by March 7, 1977 to undertake the short-term studies on the color additives.

(2) A full written report on the absorption studies for bismuth citrate and lead acetate and a full written report on the subchronic studies for bismuth citrate, bismuth oxychloride, and caramel shall be submitted to the Division of Food and Color Additives, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, by August 3, 1977.

(3) The petitioners undertaking the studies shall immediately notify the Division of Food and Color Additives of any findings that indicate a potential for the color additive to cause adverse effects.

(c) The closing date for the following nine color additives is postponed until October 31, 1977, while chemistry data and analytical methods to establish specifications for them are developed and evaluated and subject to compliance with the requirements of this paragraph: D&C Yellow No. 10, D&C Red No. 6, D&C Red No. 7, D&C Red No. 30, D&C Orange No. 4, D&C Blue No. 6, Ext. D&C Yellow No. 1, Ext. D&C Green No. 1, and graphite.

(1) At least one petitioner for each of the nine color additives listed in paragraph (c) of this section shall agree in writing by March 3, 1977 to undertake to develop the necessary chemistry data and analytical methods for the color additives.

(2) The required chemistry data and analytical methods shall be submitted to the Division of Food and Color Additives, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, by August 3, 1977.

(3) The petitioners undertaking the studies shall immediately notify the Division of Food and Color Additives of any findings that indicate a potential for the color additive to cause adverse effects.

(d) The closing date for the following 32 color additives is postponed until January 31, 1981, while chronic toxicity feeding studies and in the case of caramel, a lifetime mouse skin painting study, are conducted and evaluated, and subject to compliance with the requirements of this paragraph: FD&C Yellow No. 5, FD&C Yellow No. 6, D&C Yellow No. 10, FD&C Red No. 3, D&C Red No. 6, D&C Red No. 7, D&C Red No. 8, D&C Red No. 9, D&C Red No. 10, D&C Red No. 11, D&C Red No. 12, D&C Red No. 13, D&C Red No. 19, D&C Red No. 21, D&C Red No. 22, D&C Red No. 27, D&C Red No. 28, D&C Red No. 30, D&C Red No. 33, D&C Red No. 36, D&C Red No. 37, FD&C Green No. 3, D&C Green No. 5, D&C Green No. 6, FD&C Blue No. 1, FD&C Blue No. 2, D&C Blue No. 6, D&C Orange No. 5, D&C Orange No. 10, D&C Orange No. 11, D&C Orange No. 17, and caramel.

(1) At least one petitioner for each of the 32 color additives listed in paragraph (d) of this section shall agree in writing by March 7, 1977 to undertake the required studies on the color additives.

(2) The petitioners undertaking the studies shall submit a protocol for the conduct of the studies to the Division of Food and Color Additives, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, for review, and acceptance or rejection, by April 5, 1977.

(3) An initial progress report of the studies on the color additives shall be submitted to the Division of Food and Color Additives by December 31, 1977. Further progress reports shall be submitted at 6-month intervals thereafter. A full report of the studies conducted on the color additives shall be submitted to the Division of Food and Color Additives by August 4, 1980.

(4) The petitioners undertaking the studies shall immediately notify the Division of Food and Color Additives of any findings that indicate potential for the color additive to cause adverse effects.

Effective date: This regulation shall be effective January 31, 1977.

(Title II, Pub. L. 86-618, 74 Stat. 404-407 (21 U.S.C. 376 note).)

Dated: January 31, 1977.

JOSEPH P. HILE,
Acting Commissioner of Food and Drugs.

[FR Doc.77-3362 Filed 1-31-77;12:03 pm]

federal register

FRIDAY, FEBRUARY 4, 1977

PART IV

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration

■

ROLL-OVER PROTECTIVE STRUCTURES (ROPS) AND SEAT BELTS FOR SELF-PROPELLED EQUIPMENT

Title 30—Mineral Resources

CHAPTER I—MINING ENFORCEMENT AND SAFETY ADMINISTRATION, DEPARTMENT OF THE INTERIOR

PART 55—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC OPEN PITS MINES

PART 56—HEALTH AND SAFETY STANDARDS—SAND, GRAVEL, AND CRUSHED STONE OERATIONS

PART 57—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC UNDERGROUND MINES

Roll-Over Protective Structures (ROPS) and Seat Belts for Self-Propelled Equipment; Decision of the Secretary

In accordance with the provisions of section 6 of the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 725 (1970)) there was published in Part IV of the FEDERAL REGISTER for October 24, 1974 (39 FR 37958-37961), a notice of proposed rulemaking which set forth proposals to amend Parts 55, 56, and 57, Subchapter N, Chapter I, Title 30, Code of Federal Regulations by renumbering and revising advisory standards 30 CFR 55.14-12, 56.14-12, and 57.14-12 and making these advisory standards mandatory and applicable to surface only. The proposed standards provide engineering or performance criteria for the design, construction, and installation of roll-over protective structures (ROPS) and seat belts on certain specified self-propelled equipment excluding equipment that is operated by remote control. The Federal Metal and Nonmetal Mine Safety Advisory Committee, authorized to be established under section 7 of the Act (30 U.S.C. 726 (1970)) and established in accordance with section 9 of the Federal Advisory Committee Act (5 U.S.C., Appendix I (Supp. III 1973)), was in favor of revising the existing advisory standards and making their requirements mandatory. However, the Advisory Committee did not recommend the specific language of the proposed standards.

Therefore, under section 6(c) of the Act (30 U.S.C. 725(c)), the proposed revisions to the existing advisory standards are proposals which the Secretary of the Interior proposed to promulgate and to designate as mandatory standards. Under section 6(d)(1) of the Act (30 U.S.C. 725(d)(1)), any person who may be adversely affected by the proposed mandatory standards which had been designated as "Mandatory" standards by the Secretary and which had not been recommended as "Mandatory" standards by the Advisory Committee could file written objections and request a public hearing subject to the Administrative Procedure Act (5 U.S.C. 556 and 557) on such objections. Interested persons were afforded a period of 45 days following publication of the notice of proposed rulemaking within which to submit written data, views, arguments, and objections including requests for public hearing. Requests for a public hearing must be in writing and state the grounds for such objections.

Following the publication of the notice of proposed rulemaking in the FEDERAL REGISTER interested persons submitted their written views, arguments, and objections with respect to proposed mandatory standards 55.9-87, 56.9-87, and 57.9-87. Since standard numbers 55.9-87, 56.9-87, and 57.9-87 were assigned to mandatory standards requiring audible warning devices on heavy duty mobile equipment and were promulgated in Part IV of the FEDERAL REGISTER for June 10, 1976 (41 F.R. 23612, at 23613, 23615, and 23617, respectively) proposed mandatory standards 55.9-87, 56.9-87, 57.9-87 will be renumbered 55.9-88, 56.9-88, and 57.9-88. A public hearing was requested by the American Mining Congress, the National Crushed Stone Association, the National Sand and Gravel Association, and the State Contracting and Stone Company. A notice of public hearing was published in the FEDERAL REGISTER (40 FR 19498-19500) on May 5, 1975. The notice set forth the objections which had been filed and upon which a public hearing had been requested and gave notice that a public hearing commencing on Wednesday, June 4, 1975, at 9 a.m., c.d.t., in Dallas, Texas would be conducted by an Administrative Law Judge, Office of Hearings and Appeals, Department of the Interior, who would receive evidence relevant and material to the issues raised by the objections which had been filed. The notice further provided that the Administrative Law Judge presiding over the public hearing had all the powers necessary and appropriate to conduct a fair, full, and impartial hearing including the powers provided in 5 U.S.C. 556(c)(1) through (7). The notice further provided that the Administrative Law Judge would consider all objections and based upon the record submit a recommended decision to the Secretary of the Interior who would review the recommended decision and issue the final decision.

Among those organizations which were represented and actively participated in the public hearing were the American Mining Congress, the National Crushed Stone Association, the State Contracting and Stone Company, the Diamond Crystal Salt Company, the Construction Industries Manufacturers Association, the American Welding Society, the International Union of Operating Engineers, and the United Steel Workers of America. Upon conclusion of the hearing interested persons were given until August 10, 1975, to file statements of facts and arguments in support of their respective positions. The Honorable Charles C. Moore, Jr., Administrative Law Judge submitted a "Recommended Decision" dated November 18, 1975, to the Secretary of the Interior on April 16, 1976. Interested persons may examine or obtain copies of the "Recommended Decision" of the Administrative Law Judge from the Chief, Safety Division, Metal and Nonmetal Mine Health and Safety, Mining Enforcement and Safety Administration, Room 717, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va., 22203, telephone number (area code 703) 235-8647.

Based upon the findings of fact and conclusions of the Secretary of the Interior the wording of paragraphs (a) through (h) recommended by the Administrative Law Judge is adopted and ratified as the final wording of mandatory standards 55.9-88, 56.9-88, and 57.9-88, with the exception of two editorial changes in paragraph (h). The references to Military Standard MIL-STD 248c and the American Welding Society Structural Welding Code AWS D1-1-73 are deleted because they are no longer applicable in view of the decision to allow either the roll-over protective structure (ROPS) manufacturer or a registered professional engineer to decide what qualifications welders must have to make alterations and repairs to ROPS and ROPS-to-vehicle frame mounts provided in paragraph (f).

The recommendation of the Administrative Law Judge to add a new paragraph (i) to the proposed standards that purports to establish criteria for restricting the scope of the standards by providing conditional exemptions for self-propelled equipment when such equipment is used near the edges of high benches or cliffs or near deep water is rejected because such exemptions seriously weaken the general provisions of the standards, contain vague undefined terms and complicated procedures, and are unnecessary since the operator may be entitled to a variance from those standards pursuant to 30 CFR 55.24, 56.24, and 57.24 in specific circumstances where the health and safety of all persons which the standards are designed to protect will be no less assured under the variance permitted. It is also recognized the ROPS standards promulgated under the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801-960 (1970)) and the Occupational Health and Safety Act of 1970 (29 U.S.C. 651-678 (1970)) do not contain provisions similar to recommended paragraph (i).

Notice is given that based upon the substantial evidence of record made at the public hearing, post hearing statements of facts and arguments, and after careful review of the "Recommended Decision," the final decision of the Secretary of the Interior is set forth below.

Dated: January 19, 1977.

THOMAS S. KLEPPE,
Secretary of the Interior.

FINAL DECISION

On October 24, 1974, there was published in Part IV of the FEDERAL REGISTER[1] a notice of proposed rule making setting forth proposals to renumber and revise advisory standards 30 CFR 55.14-12, 56.14-12, and 57.14-12 and to make these safety standards mandatory. The proposed mandatory standards provide engineering or performance criteria for the design, construction, and installation of roll-over protective structures (ROPS) and seat belts. The notice of proposed rule making provided that on or before December 9, 1974, any interested

[1] 39 F.R. 37958-37961, Government Exhibit No. 1.

person who might be adversely affected by the proposed mandatory standards could file with Secretary of the Interior, through the Administrator, Mining Enforcement and Safety Administration, written objections stating the grounds for such objection and request a public hearing on such objections, subject to the Administrative Procedure Act, 5 U.S.C. 556 and 557.

Following publication of the notice of proposed rulemaking in the FEDERAL REGISTER, interested persons submitted their views, arguments and objections with respect to proposed mandatory standards 55.9–87, 56.9–87, and 57.9–87.[2] A public hearing was requested by the American Mining Congress, the National Crushed Stone Association, the National Sand and Gravel Association, and the State Contracting and Stone Company. A notice of public hearing was published in the FEDERAL REGISTER on May 5, 1975, (40 FR 19498). This notice set forth objections and grounds stated for such objections to the proposed mandatory standards; stated that interested persons could examine or obtain copies of all comments, suggestions, and objections which were filed; and, stated that at the hearing any interested person would be heard.

The public hearing was held on June 4 and 5, 1975, in the Texas Room, Baker Hotel, Commerce and Akard Streets, Dallas, Texas.

PROCEDURE FOR DEVELOPMENT OF HEALTH AND SAFETY STANDARDS UNDER THE FEDERAL METAL AND NONMETALLIC

The Federal Metal and Nonmetallic Mine Safety Act, Pub. L. 89–577 as amended by Pub. L. 94–41, embodies a policy of granting to the Secretary of the Interior a broad congressional mandate to develop and revise appropriate standards rather than spelling out in detail within the Act the standards to be established. Section 6 of the Act[3] sets forth specific procedures for promulgating health and safety standards and provides for administrative hearings and judicial review of the Secretary's decision on objections raised to standards which have not been recommended by the Federal Metal and Nonmetal Mine Safety Advisory Committee appointed pursuant to section 7 of the Act.[4]

Section 6(a) of the Act directs the Secretary to develop health and safety standards for the purpose of protecting life, promoting health and safety, and preventing accidents in mines and mills subject to the Act. In developing and revising such standards, the Secretary is required to consult with the Advisory Committee although he is not bound to accept the Committee's recommendations. Under this procedure the principal interested parties—workers, management, state officials charged with mine health and safety, and qualified persons representing the broad public interest—are guaranteed a continuing opportunity to make their views and recommendations directly known to the Secretary.

After publication of proposed mandatory standards in the FEDERAL REGISTER, interested persons have a statutory period of not less than 30 days, in which to submit written data, views, or arguments. Upon the expiration of this period of time the Secretary may promulgate the standards, except—if mandatory standards are proposed which have not been recommended by the Advisory Committee, then, any person who may be adversely affected by any such standards may file with the Secretary written objections and demand a public hearing on the objections. Under section 6(d)(2) public hearings are subject to sections 556 and 557 of the Administrative Procedure Act.

After due notice, the Secretary holds a public hearing for the purpose of receiving evidence relevant and material to the issues raised by the objections. The described procedure has been followed in the instant case since the proposed mandatory standards were not recommended by the Advisory Committee.

PRELIMINARY MATTERS RAISED AT THE OUTSET OF THE HEARING

Opponents of the proposed mandatory standards objected to the fact that on the night before the scheduled hearing, the Mining Enforcement and Safety Administration made available to all parties that could be located, suggested revised proposed mandatory standards which were, in part, different from those published in the FEDERAL REGISTER. The opponents of the mandatory standards also objected to the fact that proper procedures had not been followed in the initial stages of this formal rulemaking proceeding.

As to MESA's action in making its suggested revised proposed mandatory standards public immediately before the hearing, I can sympathize with the position of the opponents. They came to the hearing prepared to oppose certain portions of the published proposed mandatory standards only to find that certain portions had been changed and that their prepared objections may no longer be valid. I cannot agree, however, that MESA's action in this regard renders the proceedings unlawful.

There is no doubt that the original proposed mandatory standards and the written objections, grounds stated, and requests for public hearing described the subject matter and the issues involved in the hearing, and the fact that MESA, after analyzing comments from the industry, modified these proposals to accommodate some of the adverse comments of opponents cannot be said to be prejudicial to the rights of those opponents. Regarding this aspect of the case, therefore, the opponents' objections are not well taken.

As to the opponents' objections concerning the procedures followed in this case, it was pointed out during the hearing that the Department of the Interior does not have published procedures for the promulgation of mandatory standards under the Federal Metal and Nonmetallic Mine Safety Act. The only published rules concerning that Act appear at 43 CFR 4.650 et seq. and those rules involve procedures for appealing adverse actions taken by an inspector. They are not concerned with promulgation of mandatory safety standards. In a previous formal rulemaking proceeding under this Act, the Secretary of the Interior has promulgated mandatory safety standards after a public hearing, such as the one involved here, and has thus, by implication at least, decided that published procedural rules are not necessary. Furthermore, the notice of public hearing published in the FEDERAL REGISTER (40 FR 19500) expressly provided that the Administrative Law Judge presiding at the public hearing shall have all powers necessary and appropriate to conduct a fair, full, and impartial hearing including the powers provided in 5 U.S.C. 556 (c) (1) through (7). Therefore, any objections as to the lack of published procedures for the promulgation of mandatory standards are overruled, as are the suggestions that the Department of the Interior should have followed the procedures promulgated by some other agency involved in formal rulemaking.

BACKGOUND OF THE PROPOSED RULE

The need to strengthen the requirements for roll-over protective structures (ROPS) on self-propelled equipment used in metal and nonmetal open pit mines; sand, gravel, and crushed stone operations; and on the surface of underground mines, is based on the injuries and fatalities occurring at such mines. The fact that self-propelled equipment does roll over regardless of the terrain has been recognized for many years by the U.S. Army Corps of Engineers, the State of California, and the Occupational Safety and Health Administration. The need to provide protection from accidental upsets for the operator of self-propelled front-end loaders, dozers, tractors, including industrial and agricultural tractors, motor graders, and prime movers, all used with and without attachments, has prompted the Society of Automotive Engineers, Inc., to develop performance criteria for ROPS (Tr. 35).

The Secretary of the Interior has already found that eqiupment roll overs are a prime cause of injuries and fatalities in surface coal mines and surface work areas of underground coal mines, and that fatalities and serious injuries to operators of mobile equipment would be significantly reduced by the proper design, construction, and installation of ROPS. Based in part on these findings, the Secretary promulgated 30 CFR 77.-403a as the roll-over protective structure (ROPS) standard for surface coal mines and surface work areas of underground coal mines (39 FR 24006–24008) (Tr. 36).

According to the testimony, between 1971 and the date of the hearings, representatives of the Mining Enforcement and Safety Administration contacted and personally visited the Department of Labor, Corps of Engineers, State of California, and the Bureau of Reclama-

[2] Government Exhibit No. 3.
[3] 30 U.S.C. 725 (a)–(e).
[4] 30 U.S.C. 726.

tion (Tr. 322). MESA reviewed the standards OSHA planned to publish and attended the Department of Labor's public hearing on the Secretary of Labor's proposed ROPS standard. In addition, a member of MESA's Technical Support Group, together with a representative of OSHA, participated in the Society of Automotive Engineers (SAE) Subcommittee 12 (Tr. 323), which is a subcommittee of the Construction and Indusetrial Machinery Technical Committee. The title of Subcommittee 12 is "Vehicle Test Codes," and ROPS is one of the codes developed by this subcommittee.

It was stated, without contradiction, that since 1971 MESA and OSHA personnel have met on six or more occasions to exchange information and coordinate their ROPS activities.

CONTENTIONS OF THE PARTIES

No one at the hearing seriously opposed the concept of mandatory standards requiring the installation of roll-over protective structures (ROPS) and seat belts on certain mining equipment. The disputes arose as to whether or not MESA had in fact made sufficient background investigation to justify various aspects of the standards, whether certain parts of the standards should be amended or deleted, whether the wearing of seat belts should be mandatory even though the Secretary's proposal does not include mandatory wearing of seat belts, and whether certain types of equipment or equipment used in certain types of operations should be exempted from these Standards.

More specifically, the objections to the proposed rules involved contentions: (1) That the standards should not apply to equipment used primarily underground; (2) that the standard should not require that field welding be done by "certified" welders; (3) that the definition of "prime mover" should be clarified; (4) that the wearing of seat belts should be mandatory; (5) that for currently existing equipment with roll-over protective structures (ROPS) which do not contain the fabricator's name, model number, etc., that evidence of approved certification should be considered sufficient; (6) that roll-over protective structures should not be required to be added to equipment which already, pursuant to other standards, contains falling object protective structures; (7) that for purposes of the standards, a piece of equipment should be considered as fitted with proper roll-over protective structures (ROPS) if a bona fide order for such structures has been placed but not yet delivered and installed; (8) that the incorporation by reference of various scientifically established standards which are exhibits in the case, causes confusion; (9) that equipment used on highwalls should be exempted; (10) that an authorized representative of the Secretary should not be given authority to require that roll-over protective structures (ROPS) be installed prior to the dates set forth in the standards themselves; (11) that equipment used primarily near deep water should be exempted from the standards; and (12) that the standards should not contain a provision requiring the approval of the manufacturer of the roll-over protective structure (ROPS) before any repair can be made to that structure.

RESOLUTION OF ISSUES

Nearly all of the testimony presented at the hearing in Dallas was either hearsay or opinion evidence. Nevertheless, I consider such evidence sufficiently reliable to convince me of the necessity of a mandatory standard requiring roll-over protective structures (ROPS).

SEAT BELTS

After examining all of the evidence presented I am led to the conclusion that roll-over protective structures (ROPS) will not be a significant factor in saving lives when a rollover occurs unless seat belts are worn. However, there is a controversy between opponents to the proposed mandatory standards concerning the mandatory use of seat belts. The American Mining Congress and the National Crushed Stone Association advocate that the proposed standards should be modified to require the compulsory use of seat belts and the National Sand and Gravel Association and the State Contracting and Stone Company argue in opposition to such revision. Mr. Jerry Martin testified that almost 100 percent of the Operating Engineers will use seat belts if provided, Tr. 246). On the other hand there was testimony from witnesses who proposed the wearing of seat belts as added protection in an equipment roll-over that seat belts would not be worn when sheer drops or deep water is encountered. The use of seat belts is covered under advisory standards 30 CFR §§ 55.-15-13, 56.15-13, and 57.15-13 (Tr. 91.133), which provide in substance that where ROPS are provided seat belts should be used. Under both the existing advisory standards and the proposed mandatory standards, mine operators will have the option of requiring the use of seat belts when ROPS and seat belts are installed. Of course, unless seat belts are required to be installed on self-propelled equipment, there would be no option available. This flexibility will also provide an equipment operator with the opportunity to release his seat belt when his equipment is operating in those limited areas where the equipment is in immediate danger of falling over sheer drops or directly into dangerous bodies of water. The question of mandatory use of seat belts has not been submitted to, nor have the pros and cons of such a standard been considered or discussed by the Advisory Committee. The Secretary, therefore, has not had the benefit of the views of that Committee, nor have the procedural requirements of the Act been fulfilled with respect to such a standard inasmuch as it was not within the scope of the proposed mandatory standards under consideration. Consideration will be given to submission of the issue to the Advisory Committee for its consideration and recommendation on whether the use of seat belts should be mandatory and exceptions, if any, which should be provided. There will, therefore, be no requirement of the wearing of seat belts in the mandatory standards adopted in this decision.

DEFINITION OF PRIME MOVER

The proposed mandatory standards requiring roll-over protective structures (ROPS) and seat belts applies to certain described self-propelled equipment including "wheeled prime movers." The objection is that the term "prime movers," is too broadly defined in SAE J320b which is incorporated by reference and that a piece of equipment which is subject to a mandatory standard should be sufficiently described so that anyone operating that equipment will know whether or not the standard applies to it. The definition contained in Section 2, Scope of SAE Recommended Practice J320b (Government Exhibit 1: 1974 SAE Handbook p. 1529) provides as follows (Tr. 88):

> These criteria apply to pneumatic-tired prime movers such as those used to pull scrapers, water wagons, bottom dump wagons, side dump wagons, rear dump wagons, and towed fifth wheel attachments. (See SAE J869, J728, and J734 for description and nomenclature.)

It would be difficult to conceive of any self-propelled equipment that would not fit some part of that definition. Also accordingly to the testimony, in the mining industry, a wheeled prime mover may be a tractor of the type normally used to pull or push a scraper unit "but it can be used to pull a wagon, as well" (TR 103). In accordance with the principle that mandatory standards should be as clear as possible, I am also including a further clarification of the term "primer movers" in paragraph (a) of the mandatory standards and will adopt the suggestion of the American Mining Congress that they be further defined as tractors of the type and kind normally used as the mode of power for rubber-tired scrapers.

AUTHORITY OF INSPECTOR TO ACCELERATE DATE WHEN INSTALLATION OF ROPS WILL BE REQUIRED

Paragraph (c) of proposed mandatory standards sets various dates by which roll-over protective structures (ROPS) would be required on particular equipment, depending upon the date of manufacture. The proposed standard also states that an inspector may require installation of roll-over protective structures (ROPS) at an earlier date "when necessary to protect the operator of the equipment under the conditions in which the equipment is, or will be operated." A similar provision is provided in 30 CFR 77.403a applicable to surface coal mines and surface areas of underground coal mines. The statute under which the proposed mandatory standards are being promulgated, however, requires that such mandatory standards be based upon the record presented at the hearing. No evidence was presented at the hearing which would establish the necessity for a provision allowing an inspector to alter the

mandatory standard whenever the inspector thought it necessary to do so for the protection of the equipment operator. The entire purpose of issuing a mandatory standard is because the Secretary of the Interior deems that such a standard is "necessary to protect the operator of the equipment." An inspector has authority to withdraw equipment if an imminent danger develops, but short of that imminent danger he will not be authorized to accelerate the date of compliance contained in the mandatory standard. The dates by which equipment shall be equipped with ROPS will be determined by the date established by the Secretary for the standards to become promulgated in the FEDERAL REGISTER.

REPAIR OF ROLL-OVER PROTECTIVE STRUCTURES (ROPS)

Under section (f) of the proposed mandatory standards, all repair and welding of roll-over protective structures (ROPS) and their frame mounts shall be performed "only with prior approval and with instructions" from the manufacturer, and all welding shall be done by welders qualified in accordance with certain specifications. No provision is made in the proposed standards for the repair of roll-over protective structures (ROPS) where the manufacturer thereof is either out of business or incapable of giving instructions for their repair for some reason. At the hearing it was suggested that a satisfactory alternative to the requirement that approval and instructions be obtained from the manufacturer would be the requirement of approval and instructions from a registered professional engineer. The standard has been modified to require approval and instructions from either the manufacturer, or a registered professional engineer without regard to whether the manufacturer at that particular time is in business and capable of supplying the necessary instructions.

The proposed mandatory standard would require that all welding be performed by welders qualified in accordance with certain standards published by the American Welding Society. At the hearing Mr. Davis, a staff engineer for the American Welding Society, testified at length concerning the qualifications of welders. His organization does not certify or qualify welders but merely sets up a testing procedure by which anyone capable of administering the test could qualify the individual welder. This could be the mining company itself or some laboratory, but there are no standards as to who is qualified to administer the test and issue the qualifying certificate. Under the circumstances it appears that qualification in accordance with the American Welding Society standard will not assure safe and proper welds. According to the testimony, only 25 to 35 percent of welders have been qualified under that standard and many of those welders not so qualified are nevertheless highly skilled welders. In my opinion the entire qualifying procedure is too tenuous to be incorporated in these mandatory standards. Inasmuch as I have decided that either a ROPS manufacturer or a qualified professional engineer may administer approval and give instructions for repair of ROPS, the mandatory standards will allow either the ROPS manufacturer or a registered professional engineer to decide what qualifications welders making such repairs must have.

REQUESTS FOR EXEMPTION OF CERTAIN TYPES OF OPERATION

Opponents of the proposed mandatory standards have contended that a mandatory standard requiring roll-over protective structures (ROPS) and seat belts should not apply to equipment used primarily underground, equipmend used primarily near deep water, and equipment used primarily on high benches or cliffs.

As to the requested exemption for equipment operated primarily underground, the proponents seem mainly concerned with convenience. It is not a hazard to operate equipment used primarily underground with ROPS, or at least there was no evidence to that effect, but it is more convenient underground without ROPS and, of course, attaching and detaching ROPS would be an inconvenience. In my opinion, however, there was not sufficient evidence in the record to justify exclusion of this type of equipment and accordingly, no such exemption will be contained in the mandatory standards.

The case for excluding equipment operated near deep water or near the edges of high benches was not persuasive. It was pointed out that roll-over protection is primarily protection from injury when the equipment is rolled. The structures are not designed to withstand falls from high benches or cliffs. Mr. Richard W. Goodall, Chief of the Safety Office, United States Army Corps of Engineers, stated that his organization did not require ROPS when the equipment is being worked on barges and that a man should never be strapped in if he is subject to a large drop. Such extraordinary situations must be kept in perspective. During the past four years there have been only two fatalities on metal and nonmetal mining properties involving equipment going over the edge of a high bench and one of these reported fatalities involved a possible heart attack victim (Tr. 96). An analysis made of fatalities due to tractor roll-overs that were reported to the Oregon State Industrial Commission during the period of January 1, 1954, through November 1954 indicated that the movement of an overturning tractor is too fast to allow the operator to escape once the machine has started overturning (Tr. 293). Also, of the forty roll-overs involving equipment with roll-over protective structures used on sites under construction contracts with the United States Corps of Engineers during the period between January 1, 1968, through December 1971, one fatality resulted when the equipment operator jumped the wrong way (Tr. 292). The inherent dangers incident to equipment falling from a high bench or cliff or into deep water is much greater than when such equipment overturns. When an equipment operator has sufficient warning before his equipment is about to fall from a high place or into deep water, the survival techniques or options available to the operator may include leaping from the equipment within sufficient time so that the ROPS and use of seat belts are not adverse factors. Mr. Marvin Knaffla, a heavy equipment operator in an open pit mining operation testified that the installation of ROPS and seat belts is not a deterrent to getting off of the equipment while operating near any sheer drop (Tr. 319–320). Mr. Knaffla stated further, however, that under the circumstances he probably would not wear a seat belt (Tr. 320). Based on the foregoing I find that the installation of roll-over protective structures (ROPS) and the installation and discretionary use of seat belts are not of themselves hazardous to the equipment operator. This finding is further supported by the fact that there are no exceptions for equipment being operated near high places or deep water in the ROPS standards promulgated under the Federal Coal Mine Health and Safety Act of 1969 and the Occupational Safety and Health Act of 1970. However, in the event a mine operator desires an exception to the requirements of these standards, he has the option of applying for a variance under 30 CFR 55.24, 56.24, and 57.24, respectively.

FALLING OBJECT PROTECTION

The proponents of an exception for equipment already fitted with falling object protection offer essentially an economic argument. Basically, the argument is since they have already spent money in installing falling object protection they should not be required to install roll-over protection. But if a falling object protective structure is unable to protect the operator of the equipment in the event of a roll-over, the fact that a financial burden is involved in installing the roll-over protective structures (ROPS) is not persuasive. Therefore, if the falling object protective structure is strong enough to protect the equipment operator in the event of a roll-over, it will be acceptable, but if not, roll-over protective structures (ROPS) will either have to be added to or substituted for the existing structures.

INCORPORATED BY REFERENCE OF STANDARDS

In my opinion, if the mandatory standards were to physically contain every word of the various standards incorporated by reference, it would be unduly bulky and difficult to work with. The material to be incorporated by reference is readily available for those who wish to examine it.

INFORMATION PERMANENTLY AFFIXED TO ROLL-OVER PROTECTIVE STRUCTURES (ROPS)

Under paragraph (g) all roll-over protective structures (ROPS) must contain the manufacturer's or fabricator's name and address, the ROPS model number

and the make and model of equipment upon which the ROPS is designed to fit. However, for existing roll-over protective structures which do not contain the required information, a satisfactory substitute will be a certificate from either the manufacturer or a professional engineer to the effect that the ROPS does meet the performance criteria and is appropriate for the piece of equipment upon which it is installed.

REQUEST THAT PLACING ORDERS FOR ROLL-OVER PROTECTIVE STRUCTURES BE CONSIDERED EQUIVALENT TO INSTALLATION

Paragraph (c)(1)–(3) provides a reasonable period of time within which mine operators must have roll-over protective structures (ROPS) and seat belts installed on their equipment. An order for roll-over protective structures cannot protect the operator of the equipment, and the suggested revision would leave far too much room for evasion.

All proposed findings submitted by the parties that are not included in the above opinion or in the mandatory standards set forth hereinafter are rejected.

55.9–87, 56.9–87, and 57.9–87 which are renumbered 55.9–88, 56.9–88, and 57.9–88 are set forth below and are hereby adopted as the final decision of the Secretary of the Interior and are applicable to surface only.

__.9-88 *Mandatory.* (a) Excluding equipment that is operated by remote control, all self-propelled track-type (crawler mounted) or wheeled (rubber-tired) scrapers; front-end loaders; dozers; tractors, including industrial and agricultural tractors but not including over-the-road type tractors (the type that pull trailers or vans on highways); and motor graders; and wheeled prime movers (a tractor of the type and kind normally used as the mode of power for rubber-tired scrapers); all as used in metal and nonmetal mining operations, with or without attachments, shall be used in such mining only when equipped with (1) roll-over protective structures (ROPS) in accordance with the requirements of paragraphs (b) through (g) of this standard, as applicable, and (2) seat belts meeting the requirements of the Society of Automotive Engineers (SAE), Motor Vehicle Seat Belts Assemblies—SAE J4c, approved November 1955, revised July 1965; Seat Belt Hardware Test Procedures—SAE J140a, approved April 1970, revised February 1973; Seat Belt Hardware Performance Requirements—SAE J141; Operator Protection for Wheel Type Agricultural and Industrial Tractors—SAE J333a, approved April 1968, revised July 1970, conforms to ASAE S305; and Seat Belts for Construction Equipment—SAE J386, approved March 1968; and, in accordance with paragraphs (b) (c), and (e) of this standard, as applicable.

(b) Except as provided in paragraph (e) all self-propelled equipment described in paragraph (a) of this standard and manufactured on or after the effective date of this standard shall be equipped with (1) ROPS meeting the requirements of paragraph (d), and (2) seat belts meeting the requirements of SAE J4c, J140a, J141, J333a, and J386 specified in paragraph (a) of this standard.

(c) All self-propelled equipment described in paragraph (a) of this standard manufactured prior to the effective date of this standard and after June 30, 1969, shall be equipped with ROPS meeting the requirements of paragraphs (d) through (g) of this standard as appropriate, and seat belts, no later than the dates specified below:

(1) Equipment manufactured between July 1, 1971, and the effective date of this standard shall be equipped with ROPS and seat belts no later than 6 months after the effective date of this standard.

(2) Equipment manufactured between July 1, 1970, and June 30, 1971, shall be equipped with ROPS and seat belts no later than 10 months after the effective date of this standard.

(3) Equipment manufactured between July 1, 1969, and June 30, 1970, shall be equipped with ROPS and seat belts no later than 16 months after the effective date of this standard.

(4) Nothing in this standard shall preclude the issuance of an order because of imminent danger.

(d) Except as provided in paragraph (e) of this standard, self-propelled equipment described in paragraph (a) of this standard shall be deemed in compliance with the ROPS requirements of the standard if the ROPS meet the following requirements:

(1) The ROPS complies with the Society of Automotive Engineers, SAE Recommended Practice, Critical Zone—Characteristics and Dimensions for Operators of Construction and Industrial Machinery—SAE J397, approved July 1969, or Deflection Limiting Volume for Laboratory Evaluation of Roll-Over-Protective Structures (ROPS) and Falling Object Protective Structures (FOPS) of Construction and Industrial Vehicles—SAE J397a, approved July 1969, revised January 1972, editorial change, July 1973; and, as appropriate, the ROPS and installation of the ROPS meet the requirements of either SAE Recommended Practice, Performance Criteria for Roll-Over Protective Structures (ROPS) for Earthmoving, Construction, Logging, and Industrial Vehicles—SAE J1040, approved April 1974, or any of the following applicable SAE Standards or Recommended Practices:

(i) Minimum Performance Criteria for Roll-Over Protective Structure for Rubber-Tired, Self-Propelled Scrapers—SAE J320a, approved November 1967, revised July 1969, editorial change June 1970; or

(ii) Minimum Performance Criteria for Roll-Over Protective Structures for Prime-Movers—SAE J320b, approved November 1967, revised January 1972, editorial change September 1972; or

(iii) Minimum Performance Criteria for Roll-Over Protective Structures for Rubber-Tired Front End-Loaders and Rubber-Tired Dozers—SAE J394, approved July 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Wheeled Front-End Loaders and Wheeler Dozers—SAE J394a, approved July 1969, revised March 1972, editorial change September 1972; or

(iv) Minimum Performance Criteria for Roll-Over Structures for Crawler Tractors and Crawler-Type Loaders—SAE J395, approved July 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Track-Type Tractors and Tractor-Type Front-End Loaders—SAE J395a, approved July 1969, revised January 1972, editorial change September 1972; and

(v) Minimum Performance Criteria for Roll-Over Protective Structure for Motor Graders—J396, approved 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Motor Graders—SAE J396a, approved July 1969, revised March 1972, editorial change September 1972; or

(vi) Operator Protection for Wheel Type Agricultural and Industrial Tractors—SAE J333a, approved April 1968, revised July 1970, conforms to ASAE S305; and Protective Frame Test Procedure and Performance Requirements—SAE J334a, approved April 1968, revised July 1970, conforms to ASAE S306.

(2) The ROPS is installed on the equipment in accordance with the recommendations of the ROPS manufacturer. If the installation includes bolts and nuts, the bolts and nuts used to attach the ROPS to the equipment frame and to connect structural parts of the ROPS shall be SAE Grade 5 or 8 (SAE J429g and J995b).

(e) All self-propelled equipment described in paragraph (a) of this standard, manufactured prior to the effective date of this standard, shall be deemed in compliance with the standard if ROPS and seat belt installations meet the ROPS and seat belt requirements of the State of California; or the U.S. Army Corps of Engineers; or the Bureau of Reclamation, or MESA coal mine regulations, of the U.S. Department of the Interior; or the Occupational Safety and Health Administration of the U.S. Department of Labor. The requirements in effect are:

(1) State of California: Title 8 of the California Administrative Code: Construction Safety Orders, Article 10, "Haulage and Earth Moving." 1591(i) and 1596 (Register 70, No. 40—October 3, 1970); General Industry Safety Orders, Article 25, "Industrial Trucks, Tractors, Haulage Vehicles, and Earth Moving Equipment," 3650–55 (Register 72, No. 6—February 5, 1972); and Logging and Sawmill Safety Orders, Article 7, "Tractor Yarding." 5243 (Register 69, No. 10—March 8, 1969), all issued by the Division of Industrial Safety, State of California.

(2) U.S. Army Corps of Engineers: Manuals—Corps of Engineers, U.S. Army Safety-General Requirements, EM-385-1-1 (March 1967), or Change 1, March 27, 1972.

(3) Bureau of Reclamation, U.S. Department of the Interior: Section 9, "Machinery and Mechanized Equipment," Safety and Health Regulations for Construction, Part II—Bureau of Reclamation (September 1971).

(4) Mining Enforcement and Safety Administration, U.S. Department of the Interior: § 77.403a, Part 77, Title 30, Code of Federal Regulations—Mandatory Safety Standards, Surface Coal Mines and Surface Work Areas of Underground Coal Mines, promulgated in the FEDERAL REGISTER (39 FR 24006–24009).

(5) Occupational Safety and Health Administration, U.S. Department of Labor: Sections 1926.1001 and 1926.1002, Title 29, Code of Federal Regulations—Safety and Health Regulations for Construction, promulgated in the FEDERAL REGISTER (37 FR 27585–27590), and republished in the FEDERAL REGISTER (39 FR 22880–22886).

(f) Any alteration, repair, or welding of the ROPS and ROPS-to-vehicle frame mounts shall be performed only with prior approval and with instructions from the ROPS manufacturer or under the instructions of a registered professional engineer; and the manufacturer, or engineer, as the case may be, shall decide what qualifications the welders involved in this operation must have.

(g) Each ROPS shall have the following information permanently affixed to the structure:

(1) Manufacturer's or fabricator's name and address; and

(2) ROPS model number, if any; and

(3) Make and model numbers of the equipment on which the ROPS is designed to fit.

(4) For equipment already in existence when this standard goes into effect, a satisfactory substitute for the above-required information will be a certificate from either the manufacturer of the ROPS or a regis-

tered professional engineer to the effect that the ROPS does meet the performance standards and is appropriate for the piece of equipment upon which it is installed.

(h) Publications to which references are made in this standard are hereby incorporated by reference and made a apart hereof. The incorporated publications are available at each Metal and Nonmetal Mine Health and Safety Subdistrict Office, MESA. State of California safety orders are available from the State of California Office of Procurement, Documents Section, Post Office Box 20191, Sacramento, California 95820. The U.S. Army Corps of Engineers, Safety-General Safety Requirements are available from the U.S. Government Printing Office, Washington, D.C. 20402. Bureau of Reclamation Safety and Health Regulations for Construction are available from the Bureau of Reclamation, Division of Safety, Engineering and Research Center, Denver, Colorado 80225. SAE documents are available from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, Pennsylvania 15096.

[FR Doc.77-2459 Filed 2-3-77;8:45 am]

HEALTH AND SAFETY STANDARDS; METAL AND NONMETALLIC OPEN PIT AND UNDERGROUND MINES AND SAND, GRAVEL, AND CRUSHED STONE OPERATIONS

Roll-Over Protective Structures (ROPS) and Seat Belts for Self-Propelled Equipment

On October 24, 1974, a notice of proposed rulemaking was published in Part IV of the FEDERAL REGISTER (39 FR 37958–37961) proposing to amend and renumber advisory standards 30 CFR 55.14–12, 56.14–12, and 57.14–12 relating to roll protection for industrial vehicles such as fork-lift trucks, front-end loaders, and bulldozers. The proposed standards 55.9–87, 56.9–87, 57.9–87 made the advisory standards mandatory and applicable to surface only, and revised such standards to provide engineering or performance criteria for the design, construction, and installation of roll-over protective structures (ROPS) and seat belts on certain specified self-propelled equipment.

Proposed mandatory standards 55.9–87, 56.9–87, and 57.9–87 were developed in accordance with the rulemaking provisions of section 6 of the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 725 (1970)). The Federal Metal and Nonmetal Mine Safety Advisory Committee, which is authorized to be established under section 7 of the Act (30 U.S.C. 726 (1970)) and established in accordance with section 9 of the Federal Advisory Committee Act (5 U.S.C., Appendix I (Supp. V 1975)), was in favor of revising the existing advisory standards and making their requirements mandatory. However, the Advisory Committee did not recommend the specific language of the proposed standards. Therefore, under section 6(c) of the Act, the proposed revisions to the existing advisory standards are proposals which the Secretary of the Interior proposed to promulgate and to designate as "Mandatory" standards. Under section 6(d)(1) of the Act, any person who may be adversely affected by the proposed mandatory standards which have been designated as "Mandatory" standards by the Secretary and which have not been recommended as "Mandatory" standards by the Advisory Committee could file written objections and request a public hearing subject to the Administrative Procedure Act (5 U.S.C. 556 and 557) on such objections.

All data, views, arguments, and objections received in response to the proposals have been carefully reviewed and considered. Included among the letter responses submitting comments and objections to the proposals were letters containing requests for public hearing filed by the American Mining Congress, the National Crushed Stone Association, the National Sand and Gravel Association, and the State Contracting and Stone Company.

On May 5, 1975, a notice of public hearing was published in the FEDERAL REGISTER (40 FR 19498–19500) which set forth the objections which had been filed and upon which a public hearing had been requested. This notice advised all interested persons and organizations that a public hearing would be held on Wednesday, June 4, 1975, and Thursday, June 5, 1975, in Dallas, Texas and that the hearing would be conducted by an Administrative Law Judge, Office of Hearings and Appeals, Department of the Interior, who would receive evidence relevant and material to the issues raised by the objections which had been filed. The notice provided that the Administrative Law Judge presiding over the public hearing had all the powers necessary and appropriate to conduct a fair, full, and impartial hearing including the powers provided in 5 U.S.C. 556(c) (1) through (7). The notice further provided that the Administrative Law Judge would consider all objections and based upon the record submit recommended decision to the Secretary of the Interior who would review the recommended decision and issue the final decision.

The public hearing commenced at 9 a.m., c.d.t. on June 4, 1975, and closed at 2:10 p.m., on June 5, 1975. At the conclusion of the hearing the parties were allowed to file statements and arguments in support of their respective positions on or before August 10, 1975. Administrative Law Judge Charles C. Moore, Jr., who presided at the hearing, submitted a "Recommended Decision" dated November 18, 1975, to the Secretary of the Interior on April 16, 1976.

Section 6(d)(2) of the Act provides that as soon as practicable after completion of the public hearing the Secretary of the Interior shall act upon the objections that were subject to the hearing and to make his decision public. Based upon the substantial evidence of record and after reviewing the recommended decision the Secretary has made his final decision. The final decision is published above.[1] Under section 6(d)(3) persons aggrieved by the decision may obtain judicial review by the United States Court of Appeals for the District of Columbia by filing a petition with the Court within 20 days following promulgation of the standards.

Since standard numbers 55.9–87, 56.9–87, and 57.9–87 were assigned to mandatory standards requiring audible warning devices on heavy duty mobile equipment and were promulgated in Part IV of the FEDERAL REGISTER for June 10, 1976 (41 FR 23612, at 23613, 23615, and 23617, respectively) proposed mandatory standards §§ 55.9–87, 56.9–87, 57.9–87 will be renumbered §§ 55.9–88, 56.9–88, and 57.9–88.

Parts 55, 56, and 57, Subchapter N, Chapter I, Title 30 Code of Federal Regulations are amended and revised as set forth below.

Effective date: The amendments and revisions of standards shall be effective on February 4, 1977.

Dated: January 31, 1977.

W. W. LYONS,
DEPUTY UNDER SECRETARY
OF THE INTERIOR

[1] See FR Doc 77-2459 also published in this separate part of the FEDERAL REGISTER.

PART 55—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC OPEN PIT MINES

1. Section 55.9 Loading, hauling, dumping is amended as follows: New mandatory standard 55.9–88 is added to read as follows:

§ 55.9 Loading, hauling, dumping.

* * * * *

55.9–88 *Mandatory.* (a) Excluding equipment that is operated by remote control, all self-propelled track-type (crawler mounted) or wheeled (rubber-tired) scrapers; front-end loaders; dozers; tractors, including industrial and agricultural tractors but not including over-the-road type tractors (the type that pull trailers or vans on highways); and motor graders; and wheeled prime movers (a tractor of the type and kind normally used as the mode of power for rubber-tired scrapers); all as used in metal and nonmetal mining operations, with or without attachments, shall be used in such mining only when equipped with (1) rollover protective structures (ROPS) in accordance with the requirements of paragraphs (b) through (g) of this standard, as applicable, and (2) seat belts meeting the requirements of the Society of Automotive Engineers (SAE), Motor Vehicle Seat Belts Assemblies—SAE J4c, approved November 1955, revised July 1965; Seat Belt Hardware Test Procedures—SAE J140a, approved April 1970, revised February 1973; Seat Belt Hardware Performance Requirements—SAE J141; Operator Protection for Wheel Type Agricultural and Industrial Tractors—SAE J333a, approved April 1968, revised July 1970, conforms to ASAE S305; and Seat Belts for Construction Equipment—SAE J386, approved March 1968; and, in accordance with paragraphs (b), (c), and (e) of this standard, as applicable.

(b) Except as provided in paragraph (e) all self-propelled equipment described in paragraph (a) of this standard and manufactured on or after the effective date of this standard shall be equipped with (1) ROPS meeting the requirements of paragraph (d), and (2) Seat belts meeting the requirements of SAE J4c, J140a, J141, J333a, and J386

specified in paragraph (a) of this standard.

(c) All self-propelled equipment described in paragraph (a) of this standard manufactured prior to the effective date of this standard and after June 30, 1969, shall be equipped with ROPS meeting the requirements of paragraphs (d) through (g) of this standard as appropriate, and seat belts, no later than the dates specified below:

(1) Equipment manufactured between July 1, 1971, and the effective date of this standard shall be equipped with ROPS and seat belts no later than 6 months after the effective date of this standard.

(2) Equipment manufactured between July 1, 1970, and June 30, 1971, shall be equipped with ROPS and seat belts no later than 10 months after the effective date of this standard.

(3) Equipment manufactured between July 1, 1969, and June 30, 1970, shall be equipped with ROPS and seat belts no later than 16 months after the effective date of this standard.

(4) Nothing in this standard shall preclude the issuance of an order because of imminent danger.

(d) Except as provided in paragraph (e) of this standard, self-propelled equipment described in paragraph (a) of this standard shall be deemed in compliance with the ROPS requirements of this standard if the ROPS meet the following requirements:

(1) The ROPS complies with the Society of Automotive Engineers, SAE Recommended Practice, Critical Zone—Characteristics and Dimensions for Operators of Construction and Industrial Machinery—SAE J397, approved July 1969, or Deflection Limiting Volume for Laboratory Evaluation of Roll-Over Protective Structures (ROPS) and Falling Object Protective Structures (FOPS) of Construction and Industrial Vehicles—SAE J397a, approved July 1969, revised January 1972, editorial change, July 1973; and, as appropriate, the ROPS and installation of the ROPS meet the requirements of either SAE Recommended Practice, Performance Criteria for Roll-Over Protective Structures (ROPS) for Earthmoving, Construction, Logging, and Industrial Vehicles—SAE J1040, approved April 1974, or any of the following applicable SAE Standards or Recommended Practices:

(i) Minimum Performance Criteria for Roll-Over Protective Structure for Rubber-Tired, Self-Propelled Scrapers—SAE J320a, approved November 1967, revised July 1969, editorial change June 1970; or

(ii) Minimum Performance Criteria for Roll-Over Protective Structures for Prime Movers—SAE J320b, approved November 1967, revised January 1972, editorial change September 1972; or

(iii) Minimum Performance Criteria for Roll-Over Protective Structure for Rubber-Tired Front End Loaders and Rubber-Tired Dozers—SAE J394, approved July 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Wheeled Front-End Loaders and Wheeled Dozers—SAE J394a, approved July 1969, revised March 1972, editorial change September 1972; or

(iv) Minimum Performance Criteria for Roll-Over Structures for Crawler Tractors and Crawler-Type Loaders—SAE J395, approved July 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Track-Type Tractors and Track-Type Front-End Loaders—SAE J395a, approved July 1969, revised January 1972, editorial change September 1972; or

(v) Minimum Performance Criteria for Roll-Over Protective Structure for Motor Graders—J396, approved 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Motor Graders—SAE J396a, approved July 1969, revised March 1972, editorial change September 1972; or

(vi) Operator Protection for Wheel Type Agricultural and Industrial Tractors—SAE J333a, approved April 1968, revised July 1970, conforms to ASAE S305; and Protective Frame Test Procedure and Performance Requirements—SAE J334a, approved April 1968, revised July 1970, conforms to ASAE S306.

(2) The ROPS is installed on the equipment in accordance with the recommendations of the ROPS manufacturer. If the installation includes bolts and nuts, the bolts and nuts used to attach the ROPS to the equipment frame and to connect structural parts of the ROPS shall be SAE Grade 5 or 8 (SAE J429g and J995b).

(e) All self-propelled equipment described in paragraph (a) of this standard, manufactured prior to the effective date of this standard, shall be deemed in compliance with the standard if ROPS and seat belt installations meet the ROPS and seat belt requirements of the State of California; or the U.S. Army Corps of Engineers; or the Bureau of Reclamation, or MESA coal mine regulations, of the U.S. Department of the Interior; or the Occupational Safety and Health Administration of the U.S. Department of Labor. The requirements in effect are:

(1) State of California: Title 8 of the California Administrative Code: Construction Safety Orders, Article 10, "Haulage and Earth Moving," 1591(i) and 1596 (Register 70, No. 40—10–3–70); General Industry Safety Orders, Article 25, "Industrial Trucks, Tractors, Haulage Vehicles, and Earth Moving Equipment," 3650–55 (Register 72, No. 6—2–5–72); and Logging and Sawmill Safety Orders, Article 7, "Tractor Yarding," 5243 (Register 69, No. 10—3–8–69), all issued by the Division of Industrial Safety, State of California.

(2) U.S. Army Corps of Engineers: Manuals—Corps of Engineers, U.S. Army Safety-General Requirements, EM–385–1–1 (March 1967), or Change 1, March 27, 1972.

(3) Bureau of Reclamation, U.S. Department of the Interior: Section 9, "Machinery and Mechanized Equipment," Safety and Health Regulations for Construction, Part II—Bureau of Reclamation (September 1971).

(4) Mining Enforcement and Safety Administration, U.S. Department of the Interior: Section 77.403a, Part 77, Title 30, Code of Federal Regulations—Mandatory Safety Standards, Surface Coal Mines and Surface Work Areas of Underground Coal Mines, promulgated in the FEDERAL REGISTER (39 FR 24006–24009).

(5) Occupational Safety and Health Administration, U.S. Department of Labor: Sections 1926.1001 and 1926.1002, Title 29, Code of Federal Regulations—Safety and Health Regulations for Construction, promulgated in the FEDERAL REGISTER (37 FR 27585–27590), and republished in the FEDERAL REGISTER (39 FR 22880–22886).

(f) Any alteration, repair, or welding of the ROPS and ROPS-to-vehicle frame mounts shall be performed only with prior approval and with instructions from the ROPS manufacturer or under the instructions of a registered professional engineer; and the manufacturer, or engineer, as the case may be, shall decide what qualifications the welders involved in this operation must have.

(g) Each ROPS shall have the following information permanently affixed to the structure:

(1) Manufacturer's or fabricator's name and address; and

(2) ROPS model number, if any; and

(3) Make and model numbers of the equipment on which the ROPS is designed to fit.

(4) For equipment already in existence when this standard goes into effect, a satisfactory substitute for the above-required information will be a certificate from either the manufacturer of the ROPS or a registered professional engineer to the effect that the ROPS does meet the performance standards and is appropriate for the piece of equipment upon which it is installed.

(h) Publications to which references are made in this standard are hereby incorporated by reference and made a part hereof. The incorporated publications are available at each Metal and Nonmetal Mine Health and Safety Subdistrict Office, MESA. State of California safety orders are available from the State of California Office of Procurement, Documents Section, Post Office Box 20191, Sacramento, California 95820. The U.S. Army Corps of Engineers, Safety-General Safety Requirements are available from the U.S. Government Printing Office, Washington, D.C. 20402. Bureau of Reclamation Safety and Health Regulations for Construction are available from the Bureau of Reclamation, Division of Safety, Engineering and Research Center, Denver, Colorado 80225. SAE documents are available from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, Pennsylvania 15096.

* * * * *

2. Section 55.14 Use of Equipment is amended as follows: advisory standard 55.14–12 is revoked and standard number 55.14–12 is reserved.

§ 55.14 Use of Equipment.

* * * * *

55.14–12 [Reserved].

* * * * *

PART 56—HEALTH AND SAFETY STANDARDS—SAND, GRAVEL, AND CRUSHED STONE OPERATIONS

1. Section 56.9 Loading, hauling, dumping is amended as follows and new mandatory standard 56.9–88 is added to read as follows:

§ 56.9 Loading, hauling, dumping.

* * * * *

56.9–88 *Mandatory.* (a) Excluding equipment that is operated by remote control, all self-propelled track-type (crawler mounted) or wheeled (rubber-tired) scrapers; front-end loaders; dozers; tractors, including industrial and agricultural tractors but not including over-the-road type tractors (the type that pull trailers or vans on highways); and motor graders; and wheeled prime movers (a tractor of the type and kind normally used as the mode of power for rubber-tired scrapers); all as used in metal and nonmetal mining operations, with or without attachments, shall be used in such mining only when equipped with (1) Roll-over protective structures (ROPS) in accordance with the requirements of paragraphs (b) through (g) of this standard, as applicable, and (2) seat belts meeting the requirements of the Society of Automotive Engineers (SAE), Motor Vehicle Seat Belts Assemblies—SAE J4c, approved November 1955, revised July 1965; Seat Belt Hardware Test Procedures—SAE J140a, approved April 1970, revised February 1973; Seat Belt Hardware Performance Requirements—SAE J141; Operator Protection for Wheel Type Agricultural and Industrial Tractors—SAE J333a, approved April 1968, revised July 1970, conforms to ASAE S305; and Seat Belts for Construction Equipment—SAE J386, approved March 1968; and, in acordance with paragraphs (b), (c), and (e) of this standard, as applicable.

(b) Except as provided in paragraph (e) all self-propelled equipment described in paragraph (a) of this standard and manufactured on or after the effective date of this standard shall be equipped with

(1) ROPS meeting the requirements of paragraph (d), and
(2) Seat belts meeting the requirements of SAE J4c, J140a, J141, J333a, and J386 specified in paragraph (a) of this standard.

(c) All self-propelled equipment described in paragraph (a) of this standard manufactured prior to the effective date of this standard and after June 30, 1969, shall be equipped with ROPS meeting the requirements of paragraphs (d) through (g) of this standard as appropriate, and seat belts, no later than the dates specified below:

(1) Equipment manufactured between July 1, 1971, and the effective date of this standard shall be equipped with ROPS and seat belts no later than 6 months after the effective date of this standard.

(2) Equipment manufactured between July 1, 1970, and June 30, 1971, shall be equipped with ROPS and seat belts no later than 10 months after the effective date of this standard.

(3) Equipment manufactured between July 1, 1969, and June 30, 1970, shall be equipped with ROPS and seat belts no later than 16 months after the effective date of this standard.

(4) Nothing in this standard shall preclude the issuance of an order because of imminent danger.

(d) Except as provided in paragraph (e) of this standard, self-propelled equipment described in paragraph (a) of this standard shall be deemed in compliance with the ROPS requirements of this standard if the ROPS meet the following requirements:

(1) The ROPS complies with the Society of Automotive Engineers, SAE Recommended Practice, Critical Zone—Characteristics and Dimensions for Operators of Construction and Industrial Machinery—SAE J397, approved July 1969, or Deflection Limiting Volume for Laboratory Evaluation of Roll-Over–Protective Structures (ROPS) and Falling Object Protective Structures (FOPS) of Construction and Industrial Vehicles—SAE J397a, approved July 1969, revised January 1972, editorial change, July 1973; and, as appropriate, the ROPS and installation of the ROPS meet the requirements of either SAE Recommended Practice, Performance Criteria for Roll-Over Protective Structures (ROPS) for Earthmoving, Construction, Logging, and Industrial Vehicles—SAE J1040, approved April 1974, or any of the following applicable SAE Standards or Recommended Practices:

(i) Minimum Performance Criteria for Roll-Over Protective Structure for Rubber-Tired, Self-Propelled Scrapers—SAE J320a, approved November 1967, revised July 1969, editorial change June 1970; or

(ii) Minimum Performance Criteria for Roll-Over Protective Structures for Prime Movers—SAE J320b, approved November 1967, revised January 1972, editorial change September 1972; or

(iii) Minimum Performance Criteria for Roll-Over Protective Structure for Rubber-Tired Front End Loaders and Rubber-Tired Dozers—SAE J394, approved July 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Wheeled Front-End Loaders and Wheeled Dozers—SAE J394a, approved July 1969, revised March 1972, editorial change September 1972; or

(iv) Minimum Performance Criteria for Roll-Over Structures for Crawler Tractors and Crawler-Type Loaders—SAE J395, approved July 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Track-Type Tractors and Track-Type Front-End Loaders—SAE J395a, approved July 1969, revised January 1972, editorial change September 1972; or

(v) Minimum Performance Criteria for Roll-Over Protective Structure for Motor Graders—J396, approved 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Motor Graders—SAE J396a, approved July 1969, revised March 1972, editorial change September 1972; or

(vi) Operator Protection for Wheel Type Agricultural and Industrial Tractors—SAE J333a, approved April 1968, revised July 1970, conforms to ASAE S305; and Protective Frame Test Procedure and Performance Requirements—SAE J334a, approved April 1968, revised July 1970, conforms to ASAE S306.

(2) The ROPS is installed on the equipment in accordance with the recommendations of the ROPS manufacturer. If the installation includes bolts and nuts, the bolts and nuts used to attach the ROPS to the equipment frame and to connect structural parts of the ROPS shall be SAE Grade 5 or 8 (SAE J429g and J995b).

(e) All self-propelled equipment described in paragraph (a) of this standard, manufactured prior to the effective date of this standard, shall be deemed in compliance with the standard if ROPS and seat belt installations meet the ROPS and seat belt requirements of the State of California; or the U.S. Army Corps of Engineers; or the Bureau of Reclamation, or MESA coal mine regulations, of the U.S. Department of the Interior; or the Occupational Safety and Health Administration of the U.S. Department of Labor. The requirements in effect are:

(1) State of California: Title 8 of the California Administrative Code: Construction Safety Orders, Article 10, "Haulage and Earth Moving," 1591 (i) and 1596 (Register 70, No. 40—10–3–70); General Industry Safety Orders, Article 25, "Industrial Trucks, Tractors, Haulage Vehicles, and Earth Moving Equipment," 3650–55 (Register 72, No. 6—2–5–72); and Logging and Sawmill Safety Orders, Article 7, "Tractor Yarding," 5243 (Register 69, No. 10—3–8–69), all issued by the Division of Industrial Safety, State of California.

(2) U.S. Army Corps of Engineers: Manuals—Corps of Engineers, U.S. Army Safety-General Requirements, EM–385–1–1 (March 1967), or Change 1, March 27, 1972.

(3) Bureau of Reclamation, U.S. Department of the Interior: Section 9, "Machinery and Mechanized Equipment," Safety and Health Regulations for Construction, Part II—Bureau of Reclamation (September 1971).

(4) Mining Enforcement and Safety Administration, U.S. Department of the Interior: Section 77.403a, Part 77, Title 30 (Code of Federal Regulations—Mandatory Safety Standards, Surface Coal Mines and Surface Work Areas of Underground Coal Mines, promulgated in the FEDERAL REGISTER (39 FR 24006–24009).

(5) Occupational Safety and Health Administration, U.S. Department of Labor: Setcions 1926.1001 and 1926.1002, Title 29, Code of Federal Regulations—Safety and Health Regulations for Construction, promulgated in the FEDERAL REGISTER (37 FR 27585–27590), and republished in the FEDERAL REGISTER (39 FR 22880–22886).

(f) Any alteration, repair, or welding of the ROPS and ROPS-to-vehicle frame mounts shall be performed only with prior approval and with instructions from the ROPS manufacturer or under the instructions of a regisered professional engineer; and the manufacturer, or engineer, as the case may be, shall decide what qualifications the welders involved in this operation must have.

(g) Each ROPS shall have the following information permanently affixed to the structure:

(1) Manufacturer's or fabricator's name and address; and

(2) ROPS model number, if any; and

(3) Make and model numbers of the equipment on which the ROPS is designed to fit.

(4) For equipment already in existence when this standard goes into effect, a satisfactory substitute for the above-required information will be a certificate from either the manufacturer of the ROPS or a registered professional engineer to the effect that the ROPS does meet the performance standards and is appropriate for the piece of equipment upon which it is installed.

(h) Publications to which references are made in this standard are hereby incorporated by reference and made a part hereof. The incorporated publications are available at each Metal and Nonmetal Mine Health and Safety Subdistrict Office, MESA. State of California safety orders are available from the State of California Office of Procurement, Documents Section, Post Office Box 20191, Sacramento, California 95820. The U.S. Army Corps of Engineers, Safety-General Safety Requirements are available from the U.S. Government Printing Office, Washington, D.C. 20402. Bureau of Reclamation Safety and Health Regulations for Construction are available from the Bureau of Reclamation,

Division of Safety, Engineering and Research Center, Denver, Colorado 80225. SAE documents are available from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, Pennsylvania 15096.

* * * * *

2. Section 56.14 Use of Equipment is amended as follows: Advisory standard 56.14–12 is revoked and standard number 56.14–12 is reserved.

§ 56.14 Use of Equipment.

* * * * *

56.14–12 [Reserved]

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PART 57—HEALTH AND SAFETY STANDARDS—METAL AND NONMETALLIC UNDERGROUND MINES

1. Section 57.9 *Loading, hauling, dumping* is amended as follows: New mandatory standard 57.9–88 which is applicable to surface only is added to read as follows:

§ 57.9 Loading, hauling, dumping.

* * * * *

57.9–88 *Mandatory.* (a) Excluding equipment that is operated by remote control, all self-propelled track-type (crawler mounted) or wheeled (rubber-tired) scrapers; front-end loaders; dozers; tractors, including industrial and agricultural tractors but not including over-the-road type tractors (the type that pull trailers or vans on highways); and motor graders; and wheeled prime movers (a tractor of the type and kind normally used as the mode of power for rubber-tired scrapers); all as used in metal and nonmetal mining operations, with or without attachments, shall be used in such mining only when equipped with (1) Roll-over protective structures (ROPS) in accordance with the requirements of paragraphs (b) through (g) of this standard, as applicable, and (2) seat belts meeting the requirements of the Society of Automotive Engineers (SAE), Motor Vehicle Seat Belts Assemblies—SAE J4c, approved November 1955, revised July 1965; Seat Belt Hardware Test Procedures—SAE J140a, approved April 1970, revised February 1973; Seat Belt Hardware Performance Requirements—SAE J141; Operator Protection for Wheel Type Agricultural and Industrial Tractors—SAE J333a, approved April 1968, revised July 1970, conforms to ASAE S305; and Seat Belts for Construction Equipment—SAE J386, approved March 1968; and, in accordance with paragraphs (b), (c), and (e) of this standard, as applicable.

(b) Except as provided in paragraph (e) all self-propelled equipment described in paragraph (a) of this standard and manufactured on or after the effective date of this standard shall be equipped with (1) ROPS meeting the requirements of paragraph (d), and (2) seat belts meeting the requirements of SAE J4c, J140a, J141, J333a, and J386 specified in paragraph (a) of this standard.

(c) All self-propelled equipment described in paragraph (a) of this standard manufactured prior to the effective date of this standard and after June 30, 1969, shall be equipped with ROPS meeting the requirements of paragraphs (d) through (g) of this standard as appropriate, and seat belts, no later than the dates specified below:

(1) Equipment manufactured between July 1, 1971, and the effective date of this standard shall be equipped with ROPS and seat belts no later than 6 months after the effective date of this standard.

(2) Equipment manufactured between July 1, 1970, and June 30, 1971, shall be equipped with ROPS and seat belts no later than 10 months after the effective date of this standard.

(3) Equipment manufactured between July 1, 1969, and June 30, 1970, shall be equipped with ROPS and seat belts no later than 16 months after the effective date of this standard.

(4) Nothing in this standard shall preclude the issuance of an order because of imminent danger.

(d) Except as provided in paragraph (e) of this standard, self-propelled equipment described in paragraph (a) of this standard shall be deemed in compliance with the ROPS requirements of this standard if the ROPS meet the following requirements:

(1) The ROPS complies with the Society of Automotive Engineers, SAE Recommended Practice, Critical Zone—Characteristics and Dimensions for Operators of Construction and Industrial Machinery—SAE J397, approved July 1969, or Deflection Limiting Volume for Laboratory Evaluation of Roll-Over Protective Structures (ROPS) and Falling Object Protective Structures (FOPS) of Construction and Industrial Vehicles—SAE J397a, approved July 1969, revised January 1972, editorial change, July 1973; and, as appropriate, the ROPS and installation of the ROPS meet the requirements of either SAE Recommended Practice, Performance Criteria for Roll-Over Protective Structures (ROPS) for Earthmoving, Construction, Logging, and Industrial Vehicles—SAE J1040, approved April 1974, or any of the following applicable SAE Standards or Recommended Practices:

(i) Minimum Performance Criteria for Roll-Over Protective Structure for Rubber-Tired, Self-Propelled Scrapers—SAE J320a, approved November 1967, revised July 1969, editorial change June 1970; or

(ii) Minimum Performance Criteria for Roll-Over Protective Structures for Prime Movers—SAE J320b, approved November 1967, revised January 1972, editorial change September 1972; or

(iii) Minimum Performance Criteria for Roll-Over Protective Structure for Rubber-Tired Front End Loaders and Rubber-Tired Dozers—SAE J394, approved July 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Wheeled Front-End Loaders and Wheeled Dozers—SAE J394a, approved July 1969, revised March 1972, editorial change September 1972; or

(iv) Minimum Performance Criteria for Roll-Over Structures for Crawler Tractors and Crawler-Type Loaders—SAE J395, approved July 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Track-Type Tractors and Track-Type Front-End Loaders—SAE J395a, approved July 1969, revised January 1972, editorial change September 1972; or

(v) Minimum Performance Criteria for Roll-Over Protective Structure for Motor Graders—SAE J396, approved 1969, editorial change July 1970, or Minimum Performance Criteria for Roll-Over Protective Structures for Motor Graders—SAE J396a, approved July 1969, revised March 1972, editorial change September 1972; or

(vi) Operator Protection for Wheel Type Agricultural and Industrial Tractors—SAE J333a, approved April 1968, revised July 1970, conforms to ASAE S305; and Protective Frame Test Procedure and Performance Requirements—SAE J334a, approved April 1968, revised July 1970, conforms to ASAE S306.

(2) The ROPS is installed on the equipment in accordance with the recommendations of the ROPS manufacturer. If the installation includes bolts and nuts, the bolts and nuts used to attach the ROPS to the equipment frame and to connect structural parts of the ROPS shall be SAE Grade 5 or 8 (SAE J429g and J995b).

(e) All self-propelled equipment described in paragraph (a) of this standard, manufactured prior to the effective date of this standard, shall be deemed in compliance with the standard if ROPS and seat belt installations meet the ROPS and seat belt requirements of the State of California; or the U.S. Army Corps of Engineers; or the Bureau of Reclamation, or MESA coal mine regulations, of the U.S. Department of the Interior; or the Occupational Safety and Health Administration of the U.S. Department of Labor. The requirements in effect are:

(1) The State of California: Title 8 of the California Administrative Code: Construction Safety Orders, Article 10, "Haulage and Earth Moving." 1591 (1) and 1596 (Register 70, No. 40—October 3, 1970); General Industry Safety Orders, Article 25, "Industrial Trucks, Tractors, Haulage Vehicles, and Earth Moving Equipment," 3650–55 (Register 72, No. 6—February 5, 1972); and Logging and Sawmill Safety Orders, Article 7, "Tractor Yarding," 5243 (Register 69, No. 10—March 8, 1969), all issued by the Division of Industrial Safety, State of California.

(2) U.S. Army Corps of Engineers: Manuals—Corps of Engineers, U.S. Army Safety-General Requirements, EM–385–1–1 (March 1967), or Change 1, March 27, 1972.

(3) Bureau of Reclamation, U.S. Department of the Interior: Section 9, "Machinery and Mechanized Equipment," Safety and Health Regulations for Construction, Part II—Bureau of Reclamation (September 1971).

(4) Mining Enforcement and Safety Administration, U.S. Department of the Interior: Section 77.403a, Part 77, Title 30, Code of Federal Regulations—Mandatory Safety Standards, Surface Coal Mines and Surface Work Areas of Underground Coal Mines, promulgated in the FEDERAL REGISTER (39 FR 24006–24009).

(5) Occupational Safety and Health Administration, U.S Department of Labor: Sections 1926.1001 and 1926.1002, Title 29, Code of Federal Regulations—Safety and Health Regulations for Construction, promulgated in the FEDERAL REGISTER (37 FR 27585–27590), and republished in the FEDERAL REGISTER (39 FR 22880–22886).

(f) Any alteration, repair, or welding of the ROPS and ROPS-to-vehicle frame mounts shall be performed only with prior approval and with instructions from the ROPS manufacturer or under the instructions of a registered professional engineer; and the manufacturer, or engineer, as the case may be, shall decide what qualifications the welders involved in this operation must have.

(g) Each ROPS shall have the following information permanently affixed to the structure:

(1) Manufacturer's or fabricator's name and address; and

(2) ROPS model number, if any; and

(3) Make and model numbers of the equipment on which the ROPS is designed to fit.

(4) For equipment already in existence when this standard goes into effect, a satisfactory substitute for the above-required information will be a certificate from either the manufacturer of the ROPS or a registered professional engineer to the effect that the ROPS does meet the performance standards and is appropriate for the piece of equipment upon which it is installed.

(h) Publications to which references are made in this standard are hereby incorporated by reference and made a part hereof.

The incorporated publications are available at each Metal and Nonmetal Mine Health and Safety Subdistrict Office, MESA. State of California safety orders are available from the State of California Office of Procurement, Documents Section, Post Office Box 20191, Sacramento, California 95820. The U.S. Army Corps of Engineers, Safety-General Safety Requirements are available from the U.S. Government Printing Office, Washington, D.C. 20402. Bureau of Reclamation Safety and Health Regulations for Construction are available from the Bureau of Reclamation, Division of Safety, Engineering and Research Center, Denver, Colorado 80225. SAE documents are available from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, Pennsylvania 15096.

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2. Section 57.14 *Use of Equipment* is amended as follows: advisory standard 57.14–12 which is applicable to surface and underground is revoked and standard number 57.14–12 is reserved.

§ 57.14 Use of equipment.

* * * * *

57.14–12 [Reserved]

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NOTE.—Incorporation by reference provisions approved by the Director of the Federal Register, February 2, 1977.

[FR Doc.77–3658 Filed 2–3–77;8:45 am]

federal register

FRIDAY, FEBRUARY 4, 1977

PART V

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

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.

Arkansas:		
	AR76-4129; AR76-4130	July 23, 1976.
	AR76-4133	July 13, 1976.
	AR76-4188	Nov. 19, 1976.
California:		
	CA76-5101; CA76-5102	Nov. 19, 1976.
	CA76-5120; CA76-5121	Dec. 28, 1976.
Georgia:		
	AR-4038	Sept. 27, 1974.
Illinois:		
	IL76-2015	Feb. 27, 1976.
	IL76-2120; IL76-2121	Oct. 1, 1976.
	IL76-2123	Oct. 8, 1976.
	IL76-2130; IL76-2141	Oct. 29, 1976.
Indiana:		
	IN76-2147; IN76-2148	Do.
Kentucky:		
	KY76-1132	Nov. 12, 1976.
Massachusetts:		
	MA76-2095; MA76-2096; MA76-2097; MA76-2098; MA76-2099; MA76-2100.	Aug. 13, 1976.
	MA76-2101; MA76-2103	Aug. 20, 1976.
	MA76-2102; MA76-2105	Sept. 20, 1976.
	MA76-2104; MA76-2106	Sept. 3, 1976.
Nevada:		
	NV77-5004	Jan. 4, 1977.
New Jersey:		
	NJ76-3248; NJ76-3249	Oct. 1, 1976.
	NJ76-3252	Oct. 29, 1976.
New Mexico:		
	NM76-4182	Nov. 12, 1976.
Texas:		
	TX76-4140	Aug. 6, 1976.
	TX77-4005	Jan. 21, 1977.
Virginia:		
	VA76-3213; VA76-3214; VA76-3215.	July 30, 1976.
Wisconsin		
	WI76-2045	Apr. 16, 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.

Arkansas:		
	AR76-4132 (AR77-4018)	July 23, 1976.
Hawaii:		
	HI76-5092 (HI77-5010)	Sept. 24, 1976.
Indiana:		
	IN76-2146 (IN77-2006)	Oct. 29, 1976.
Kansas:		
	AQ-88 (KS77-4019)	Mar. 24, 1974.
	KS76-4097 (KS77-4020)	June 11, 1976.
Nebraska:		
	NE76-4167 (NE77-4017)	Oct. 8, 1976.
New York:		
	NY76-3257 (NY77-3022)	Do.
North Carolina:		
	AQ-4105 (NC77-1014)	Apr. 26, 1974.
	AR-4031 (NC77-1013)	Sept. 6, 1974.
Pennsylvania:		
	PA76-3186 (PA77-3026)	June 18, 1976.

Signed at Washington, D.C., this 28th day of January 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 1

DECISION NO. AR76-4129 - Mod. #2
(41 FR 30507 - July 23, 1976)
Union and Ouachita Counties, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS	$10.10	.40	.50		.02
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS	8.55	.40	.35		.04
PLUMBERS & PIPEFITTERS	9.83	.45	.55		.05
IRONWORKERS (Ouachita County)	9.70	.40	.50		.04
ADD:					
PAINTERS:					
Brush, roller, sheet rock work and paperhanging	8.00				
Spray painting & sandblasting	8.625				

DECISION NO. AR76-4130 - Mod. #4
(41 FR 30509 - July 23, 1976)
Conway, Faulkner, Perry, Van Buren & Cleburne Counties, Ark.

CHANGE:					
ASBESTOS WORKERS	$10.10	.40	.50		.02
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS & STONEMASONS	8.55	.40	.35		.04
GLAZIERS	7.60		.25		
PLUMBERS & PIPEFITTERS:					
Within 10 mile radius of Pulaski County Courthouse	9.85	.45	.55		.02
Over 10 mile from Pulaski County Courthouse	10.15	.45	.55		.02
LINE CONSTRUCTION:					
Linemen	10.35		1%		3/8%
Cable splicers	10.475		1%		3/8%
Operator	10.35		1%		3/8%
SHEET METAL WORKERS	9.65	.40	.40		.02

MODIFICATIONS P. 2

DECISION NO. AR76-4133 - Mod. #3
(41 FR 30513 - July 13, 1976)
Garland, Hot Springs and Clark Counties, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS	$10.10	.40	.50		.02
BOILERMAKERS	10.00	.50	1.00		.02
CARPENTERS:					
(Garland County and Northern 2/3 of Hot Spring County)					
Carpenters	8.05	.40	.30		.05
Millwrights-Piledrivermen	8.55	.40	.30		.05
CEMENT MASONS	8.27	.25			.03
PAINTERS:					
Brush and roller	6.50				
Paperhanging	6.75				
Sheet rock (tape & float only); stage & steel	6.75				
Spray and sand blasting	7.00				
Painters, operating any kind of taping or floating machine	8.50				

DECISION NO. AR76-4188 - Mod. #1
(41 FR 51253 - November 19, 1976)
Pulaski County, Arkansas

CHANGE:					
ASBESTOS WORKERS	$10.10	.40	.50		.02
BOILERMAKERS	10.00	.50	1.00		.02
CARPENTERS:					
Carpenters	8.23	.45	.35		.05
Millwrights-Piledrivermen	8.73	.45	.35		.05
PLASTERERS	8.60				

DECISION NO. CA76-5101 - Mod. #1
(41 FR 51255-November 19, 1976)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers; Stonemasons:					
Fresno, Kings, Madera, Mariposa and Merced Counties	$10.95	.95	$1.00		
Alpine, Amador, Calaveras, San Joaquin, Stanislaus and Tuolumne Counties	10.85	1.00	1.00	1.00	
Electricians:					
Amador, Colusa, Sacramento, Sutter, Yolo, Yuba and those portions of Alpine, El Dorado, Nevada, Placer and Sierra Counties West of the Main Sierra Mountain Watershed					
Electricians	12.89	.95	1%+.85		.045
Cable Splicers	14.18	.95	1%+.85		.045
Tunnels:					
Electricians	13.03	.95	1%+.85		.045
Cable Splicers	14.32	.95	1%+.85		.045
Butte, Glenn, Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama and Trinity Counties					
Electricians	11.98	.87	1%+.705		.04
Cable Splicers	13.18	.87	1%+.705		.04
Tunnel:					
Electricians; Cable Splicers' Helpers	12.58	.87	1%+.705		.04
Cable Splicers	13.84	.87	1%+.705		.04
Calaveras and San Joaquin Cos					
Electricians; Technicians	12.15	.92	1%+1.25		.01
Cable Splicers	13.67	.92	1%+1.25		.01

DECISION NO. CA76-5101 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fresno, Kings, Madera and Tulare Counties					
Electricians	$12.26	.75	1%+.95		.05
Cable Splicers	13.26	.75	1%+.95		.05
Napa and Solano Counties					
Electricians	12.07	.68	1%+.85		.04
Cable Splicers	13.58	.68	1%+.85		.04
San Benito, Santa Clara and Santa Cruz Counties					
Electricians	12.80	.77	1%+1.50		.05
Cable Splicers	14.40	.77	1%+1.50		.05
Ironworkers:					
Fence Erectors	10.41	1.14	1.86	1.20	.04
Reinforcing	11.50	1.14	1.86	1.20	.04
Ornamental; Structural	11.50	1.14	1.86	1.20	.04
Line Construction:					
Del Norte, Modoc and Siskiyou Counties					
Tree trimmer helper; Groundman	7.83	.35	1%	.10	1/2%
Head groundman; Headgroundman (Chipper); Powdermen; Jackhammermen	8.31	.35	1%	.10	1/2%
Line Equipment Men	9.52	.35	1%	.10	1/2%
Linemen Polesprayer; Heavy Line Equipment Men; Certified Lineman; Welder	11.04	.35	1%	.10	1/2%
Tree Trimmer	9.97	.35	1%	.10	1/2%
Cable Splicer; Leadman; Pole Sprayer	12.23	.35	1%	.10	1/2%
Monterey County					
Groundmen	9.42	.95	1%+1.45		.01
Linemen; Technicians	12.56	.95	1%+1.45		.01
Cable Splicers	13.88	.95	1%+1.45		.01
Butte, Glenn, Lassen, Plumas, Shasta, Tehama and Trinity Counties					
Groundmen	9.26	.87	1%+.705		.02
Linemen; Equipment Operators	11.58	.87	1%+.705		.02
Cable Splicers	12.74	.87	1%+.705		.02

MODIFICATIONS P. 5

DECISION NO. CA76-5101 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Monterey, San Benito, San Mateo, Santa Clara and Santa Cruz Counties (excluding portions of Counties in the Lake Tahoe Area)					
Brush	$11.22	.99	$1.30	.80	.03
Spray	11.47	.99	1.30	.80	.03
Tapers	11.77	.99	1.30	.80	.03
Alameda, Contra Costa, El Dorado, Napa, Nevada, Placer, Sacramento, Sierra, Solano and Yolo Counties (excluding portions of Counties in the Lake Tahoe Area)					
Brush	11.12	.99	1.30	.80	.03
Spray	11.37	.99	1.30	.80	.03
Tapers	11.92	.99	1.30	.80	.03
Plasterers:					
Fresno, Kings, Madera and Tulare Counties	9.24	.90	1.50	1.11	
Del Norte, Humboldt, Lassen (Northwestern half), Marin, Modoc, Napa, Shasta, Siskiyou, Solano, Sonoma, Tehama, and Trinity Counties	9.95	.98	.50	1.25	.01
Sheet Metal Workers:					
Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Sutter, Tehama, Yolo and Yuba Counties	11.09	.66	1.44		.09
Fresno, Kings, Madera and Tulare Counties	11.70	.66	1.22		.09

MODIFICATIONS P. 6

DECISION NO. CA76-5101 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Soft Floor Layers:					
Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lassen (excluding Honey Lake Area), Merced (east of San Joaquin River), Plumas, San Joaquin, Shasta, Sacramento, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Yolo and Yuba Counties and those portions of El Dorado, Nevada, Placer and Sierra Counties (excluding Lake Tahoe Area)	$10.25	.79	$1.25	$1.00	.10
Terrazzo Workers:					
Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, San Francisco, San Mateo, Siskiyou, Solano, Sonoma and Trinity Counties	12.02	1.40	.93		
Tile Setters:					
Fresno, Kings, Madera, Mariposa, Merced and Tulare Counties	9.77	.40	.35		
Laborers:					
Group 1	8.295	1.00	1.70	.90	.10
Group 1(a)	8.52	1.00	1.70	.90	.10
Group 1(b)	8.795	1.00	1.70	.90	.10
Group 1(c)	8.345	1.00	1.70	.90	.10
Group 1(d)	8.245	1.00	1.70	.90	.10
Group 1(e)	8.845	1.00	1.70	.90	.10
Group 1(f)	8.495	1.00	1.70	.90	.10
Group 2	8.145	1.00	1.70	.90	.10
Group 3	8.045	1.00	1.70	.90	.10
(Gunnite):					
Group 1	8.755	1.00	1.70	.90	.10
Group 2	8.165	1.00	1.70	.90	.10
Group 3	8.045	1.00	1.70	.90	.10

LABORERS

Group 1: Asphalt Ironers and Rakers; Barko, wacker and similar type tampers; Buggymobile; Chainsaw, faller, logloader and bucker; Compactors of all types; Concrete and magnesite mixer 1/2 yard and under; Concrete Pan Work; Concrete Saw; Concrete Sander; Cribber and/or shoring; Cut Granite Curb Setter; Form Raisers; Slip Forms; Green Cutters, Headerboardmen, Rubsetters, Aligners; Jackhammer Operators; Jacking of pipe over 12 inches; Jackson and similar type Compactors; Kettlemen, Potmen and men applying asphalt, lay-Kold, creosote, lime, caustic and similar type materials; Lagging, sheeting, whaling, bracking, trench-jacking, hand-guided lagging hammer; Magnesite, epoxyresin, fiberglass, and mastic workers (wet or dry); Pavement Breakers and Spaders, including tool grinder; Pipelayers, caulkers, banders, pipewrappers, conduit layers, plastic pipelayers; Post Hole Diggers - air, gas and electric; Power Broom Sweepers; Power Tampers of all types (except as shown in Group 2); Ram Set gun and stud gun; Rip-rap-stonepaver and rock-slinger, including placing of sacked concrete and/or sand (wet or dry); Rotary Scarifier, multiple head concrete chipper; Davis Trencher - 300 or similar type (and all small trenchers); Roto and Ditch Witch; Roto-tiller; Sandblasters, Potman, Gunman, Nozzleman; Signalling and Rigging; Tank Cleaners; Tree Climbers; Vibra-screed - Bull Float in connection with laborers' work; Vibrators; Dri-pak-it machine; High pressures blow pipe (1½" or over, 100 lbs. pressure or over); Hydro Seeder and similar type; Laser Beam in connection with laborers' work

Group 1(a): Joy Drill Model TWM-2A; Gardener-Denver Model DH143 and similar type drills; Track Drillers; Jack Leg Drillers; Diamond Drillers; Wagon Drillers; Mechanical Drillers - all types regardless of type or method of power; Multiple unit drills; Blasters and Powdermen; All work of loading, placing and blasting of all powder and explosives of whatever type regardless of method used for such loading and placing; High Scalers (including drilling of same); Tree Topper; Bit Grinder

Group 1(b): Sewer Cleaners

Group 1(c): Burning and Welding

LABORERS (Cont'd)

Group 1(d): Repair Trackmen and Road Beds (cut and cover work of subway after the temporary cover has been placed)

Group 1(e): Laborers on general construction work on or in bell hole footings and shaft

Group 1(f): Contra Costa County Only: Pipelayers, Caulkers, Banders, Pipewrappers, Conduit Layers and Plastic Pipelayers; Pressure Pipe Tester, no joint pipe and stripping of same, including repair of voids, Precast Manhole Setters, Cast in place, Manhole Form Setters

Group 2: Asphalt Shovelers; Cement Dumpers and handling dry cement or gypsum; Choke-setter and Rigger (clearing work); Concrete Bucket Dumper and Chutemen; Concrete Chipping and Grinding; Concrete Laborers (wet or dry); Driller's Helper; Chuck Tender; Nipper; Guinea Chaser (Stakeman); Grout Crew; High Pressure Nozzleman, adductors; Hydraulic Monitor (over 100 lbs. pressure); Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete construction; Pittsburgh Chipper, and similar type Brush Shredders; Sloper; Singlefoot, hand held, pneumatic tamper; All pneumatic, air, gas, and electric tools; Jacking of pipe under 12 inches.

Group 3: All cleanup work of debris, grounds and buildings including but not limited to street cleaners; Cleaning and washing windows; Construction Laborers including bridge and general laborers; Dump-man, load spotter; Fire Watcher; Street Cleaners; Gardeners, Horticulteral and landscape laborers; Jetting; Limbers; Brush Loaders; Pilers, landscape laborers on new construction; Repair Trackmen and Road Beds; Streetcar and Railroad construction Track Laborers; Temporary air and water lines, Victaulic or similar; Tool room attendant; Fence Erectors; Guardrail Erectors; Pavement Markers (button setters)

LABORERS
(Gunnite)

Group 1: Nozzleman (including Gunman, Potman); Rodmen; Groundman

Group 2: Reboundman

Group 3: General Laborers

DECISION CO. CA76-5101 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Power Equipment Operators:					
Group 11-A: (Area 2)	$13.95	$1.35*	$2.00	.90	.24
Group 11-B: (Area 2)	14.25	1.35*	2.00	.90	.24
Group 11-C: (Area 1)	13.07	1.35*	2.00	.90	.24
Group 11-C: (Area 2)	14.55	1.35*	2.00	.90	.24
*Includes $.22 per hour to Pensioned Health and Welfare Fund.					
DECISION NO. CA76-5102 - Mod. #1 (41 FR 51272-November 19, 1976) Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California					
Change:					
Bricklayers; Stonemasons:					
Fresno, Mariposa and Merced Counties	$10.95	.95	$1.00		
Alpine, Amador, Calaveras, San Joaquin and Tuolumne Counties	10.85	1.00	1.00	1.00	
Electricians:					
Amador, Sacramento, Sutter, Yolo, Yuba and those portions of Alpine, El Dorado, Nevada, and Placer Counties West of the Main Sierra Mountain Watershed					
Electricians	12.89	.95	1%+.85		.045
Cable Splicers	14.18	.95	1%+.85		.045
Lake Tahoe Area					
Electricians	10.34	.53	1%+.55		.03
Cable Splicers	11.37	.53	1%+.55		.03

DECISION NO. CA76-5102 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Tehama County					
Electricians (Family residences, limited to 3 stories)	$8.03	.87	1%+.55		.04
Electricians (4 stories):					
Electricians	11.98	.87	1%+.705		.04
Cable Splicers	13.18	.87	1%+.705		.04
Calaveras and San Joaquin Counties					
Electricians	12.15	.92	1%+1.25		.01
Cable Splicers	13.67	.92	1%+1.25		.01
Fresno County					
Electricians (Family residences, not to exceed 2 stories)	7.75	.60	1%+.95		.05
Electricians (3-4 stories):					
Electricians	12.26	.75	1%+.95		.05
Cable Splicers	13.26	.75	1%+.95		.05
Monterey County					
Electricians	12.50	.95	1%+1.45		.06
Cable Splicers	13.81	.95	1%+1.45		.06
Napa and Solano Counties					
Electricians	12.07	.68	1%+.85		.04
Cable Splicers	13.58	.68	1%+.85		.04
San Benito, Santa Clara and Santa Cruz Counties					
Electricians	12.80	.77	1%+1.50		.05
Cable Splicers	14.40	.77	1%+1.50		.05
Ironworkers:					
Fence Erectors	10.41	1.14	1.86	1.20	.04
Reinforcing	11.30	1.14	1.86	1.20	.04
Ornamental; Structural	11.30	1.14	1.86	1.20	.04
Painters:					
Del Norte and Humboldt Cos. Brush	7.55	.60	.20	.80	
Spray; Sandblasters; Structural Steel; Swing Stage; Tapers; Paperhangers	7.80	.60	.20	.80	

MODIFICATIONS P. 11

DECISION NO. CA76-5102 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Monterey, San Benito, San Mateo, Santa Clara and Santa Cruz Counties (excluding portions of the Lake Tahoe Area)					
Brush	$11.22	.99	$1.30	.80	.03
Spray	11.47	.99	1.30	.80	.03
Tapers	11.77	.99	1.30	.80	.03
Alameda, Contra Costa, El Dorado, Napa, Nevada, Placer, Sacramento, Solano and Yolo Counties (excluding portions of Counties in the Lake Tahoe Area)					
Brush	11.12	.99	1.30	.80	.03
Spray	11.37	.99	1.30	.80	.03
Tapers	11.92	.99	1.30	.80	.03
Plasterers:					
Fresno County	9.24	.90	1.50	1.11	
Del Norte, Humboldt, Marin, Napa, Solano, Sonoma and Tehama Counties	9.95	.98	.50	1.25	.01
Sheet Metal Workers:					
Amador, El Dorado, Nevada Placer, Sacramento, Sutter, Tehama, Yolo and Yuba Cos.	11.09	.66	1.44		.09
Fresno County	8.75	.66	1.22		.09
Soft Floor Layers:					
Alpine, Amador, Calaveras, Merced (East of the San Joaquin River), San Joaquin, Sacramento, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties; and those portions of El Dorado, Nevada and Placer Counties (excluding Lake Tahoe Area)	10.23	.79	1.25	1.00	.10
Terrazzo Workers:					
Alameda, Contra Costa, Del Norte, Humboldt, Marin, Napa, San Francisco, San Mateo, Solano and Sonoma Counties	12.02	1.40	.93		

MODIFICATIONS P. 12

DECISION NO. CA76-5102 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Tile Setters:					
Fresno, Mariposa and Merced Counties	$9.77	.40	.35		
Power Equipment Operators:					
Group 11-A: (Area 2)	13.95	1.35*	2.00	.90	.24
Group 11-B: (Area 2)	14.25	1.35*	2.00	.90	.24
Group 11-C: (Area 1)	13.07	1.35*	2.00	.90	.24
Group 11-C: (Area 2)	14.55	1.35*	2.00	.90	.24
Add:					
Laborers:					
Group 1	8.295	1.00	1.70	.90	.10
Group 1(a)	8.52	1.00	1.70	.90	.10
Group 1(b)	8.795	1.00	1.70	.90	.10
Group 1(c)	8.345	1.00	1.70	.90	.10
Group 1(d)	8.245	1.00	1.70	.90	.10
Group 1(e)	8.845	1.00	1.70	.90	.10
Group 1(f)	8.495	1.00	1.70	.90	.10
Group 2	8.145	1.00	1.70	.90	.10
Group 3	8.045	1.00	1.70	.90	.10
(Gunnite):					
Group 1	8.755	1.00	1.70	.90	.10
Group 2	8.165	1.00	1.70	.90	.10
Group 3	8.045	1.00	1.70	.90	.10

*Includes $.23 per hour to Pensioned Health and Welfare Fund.

LABORERS

Group 1: Asphalt Ironers and Rakers; Barko, wacker and similar type tampers; Buggyboile; Chainsaw, faller, logloader and bucker; Compactors of all types; Concrete and magnesite mixer 1/2 yard and under; Concrete Pan Work; Concrete Saw; Concrete Sander; Cribber and/or shoring; Cut Granite Curb Setter; Form Raisers; Slip Forms; Green Cutters, Headerboardmen, Hubsetters, Aligners; Jackhammer Operators; Jacking of pipe over 12 inches; Jackson and similar type Compactors; Kettlemen, Potmen and men applying asphalt, lay-Kold, creosote, lime, caustic and similar type materials; Lagging, sheeting, whaling, bracking, trench-jacking, hand-guided lagging hammer; Magnesite, epoxyresin, fiberglass, and mastic workers (wet or dry); Pavement Breakers and Spaders, including tool grinder; Pipelayers, caulkers, banders, pipewrappers, conduit layers, plastic pipelayers; Post Hole Diggers - air, gas and electric; Power Broom Sweepers; Power Tampers of all types (except as shown in Group 2); Ram Set gun and stud gun; Rip-rap-stonepaver and rock-slinger, including placing of sacked concrete and/or sand (wet or dry); Rotary Scarifier, multiple head concrete chipper; Davis Trencher - 300 or similar type (and all small trenchers); Roto and Ditch Witch; Roto-tiller; Sandblasters, Potman, Gunman, Nozzleman; Signalling and Rigging; Tank Cleaners; Tree Climbers; Vibra-screed - Bull Float in connection with laborers' work; Vibrators; Dri-pak-it machine; High pressures blow pipe (1¼" or over, 100 lbs. pressure or over); Hydro Seeder and similar type; Laser Beam in connection with laborers' work

Group 1(a): Joy Drill Model TWH-2A; Gardener-Denver Model DH143 and similar type drills; Track Drillers; Jack Leg Drillers; Diamond Drillers; Wagon Drillers; Mechanical Drillers - all types regardless of type or method of power; Multiple unit drills; Blasters and Powdermen; All work of loading, placing and blasting of all powder and explosives of whatever type regardless of method used for such loading and placing; High Scalers (including drilling of same); Tree Topper; Bit Grinder

Group 1(b): Sewer Cleaners

Group 1(c): Burning and Welding

LABORERS (Cont'd)

Group 1(d): Repair Trackman and Road Beds (cut and cover work of subway after the temporary cover has been placed)

Group 1(e): Laborers on general construction work on or in bell hole footings and shaft

Group 1(f): Contra Costa County Only: Pipelayers, Caulkers, Banders, Pipewrappers, Conduit Layers and Plastic Pipelayers; Pressure Pipe Tester, no joint pipe and stripping of same, including repair of voids, Precast Manhole Setters, Cast in place, Manhole Form Setters

Group 2: Asphalt Shovelers; Cement Dumpers and handling dry cement or gypsum; Choke-setter and Rigger (clearing work); Concrete Bucket Dumper and Chuteman; Concrete Chipping and Grinding; Concrete Laborers (wet or dry); Driller's Helper; Chuck Tender; Nipper; Guinea Chaser (Stakeman); Grout Crew; High Pressure Nozzleman, adductors; Hydraulic Monitor (over 100 lbs. pressure); Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete construction; Pittsburgh Chipper, and similar type Brush Shredders; Sloper; Singlefoot, hand held, pneumatic tamper; All pneumatic, air, gas, and electric tools; Jacking of pipe under 12 inches.

Group 3: All cleanup work of debris, grounds and buildings including but not limited to street cleaners; Cleaning and washing windows; Construction Laborers including bridge and general laborers; Dump-man, load spotter; Fire Watcher; Street Cleaners; Gardeners, Horticultural and landscape laborers; Jetting; Limbers; Brush Loaders; Pilers, landscape laborers on new construction; Repair Trackmen and Road Beds; Streetcar and Railroad construction Track Laborers; Temporary air and water lines, Victaulic or similar; Tool room attendant; Fence Erectors; Guardrail Erectors; Pavement Markers (button setters)

LABORERS
(Gunnite)

Group 1: Nozzleman (including Gunman, Potman); Rodmen; Groundman

Group 2: Reboundman

Group 3: General Laborers

DECISION NO. CA76-5120 - Mod. #2
(41 FR 56556-December 28, 1976)
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electricians:					
Kern (China Lake Naval Ordnance Test Station, Edwards AFB)					
Electricians; Technicians	$14.82	.70	1%+1.48		.15
Cable Splicers	16.30	.70	1%+1.48		.15
Kern County (Remainder of County)					
Electricians; Technicians	12.32	.70	1%+1.48		.15
Cable Splicers	13.55	.70	1%+1.48		.15
Inyo, Mono and San Bernardino Counties					
Electricians	11.80	.96	1%+1.65		.04
Cable Splicers	12.10	.96	1%+1.65		.04
Tunnel:					
Electricians	12.98	.96	1%+1.65		.04
Cable Splicers	13.28	.96	1%+1.65		.04
San Luis Obispo County					
Electricians	12.26	1.00	1%+1.35		.03
Cable Splicers	13.48	1.00	1%+1.35		.03
Ventura County					
Electricians	13.03	.84	1%+1.05		.02
Cable Splicers	14.33	.84	1%+1.05		.02
Ironworkers:					
Fence Erectors	10.41	1.14	1.86	1.20	.04
Reinforcing	11.30	1.14	1.86	1.20	.04
Ornamental; Structural	11.30	1.14	1.86	1.20	.04

DECISION NO. CA76-5120 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Kern (China Lake Naval Ordnance Test Station and Edwards AFB)					
Groundmen	$11.74	.70	1%+1.48		.15
Linemen	14.82	.70	1%+1.48		.15
Cable Splicers	16.30	.70	1%+1.48		.15
Kern County (Remainder of County)					
Groundmen	9.24	.70	1%+1.48		.15
Linemen	12.32	.70	1%+1.48		.15
Cable Splicers	13.55	.70	1%+1.48		.15
San Luis Obispo County					
Groundmen	9.66	1.00	1%+1.35		.03
Linemen; Line Equipment Operators	12.26	1.00	1%+1.35		.03
Cable Splicers	13.48	1.00	1%+1.35		.03
Marble Setters:					
Imperial County	11.12	.70	1.17		.04
Painters:					
Imperial, Orange, Riverside, Los Angeles (Pomona Area), San Bernardino (excluding Western portion)					
Brush; Paint Burners	10.37	.99	1.10	.75	.07
Paperhangers; Iron, steel and bridge (swing stage); Sheet rock taper	10.87	.99	1.10	.75	.07
Brush (swing stage); Spray	10.06	.99	1.10	.75	.07
Steeplejack	11.77	.99	1.10	.75	.07
Inyo, Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station and Edwards AFB), Los Angeles (except Pomona Area), Mono, San Bernardino (west of a line north of Trona including China Lake Area, Johannesburg, Boron, south including the Wrightwood Area)					
Brush	11.27	.46	.60	.60	.01

DECISION NO. CA76-5120 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Structural steel and bridge Painter Burner	$11.39	.46	.60	.60	.01
Tapers	11.79	.46	.60	.60	.01
Brush Swing Stage (15 stories or less) Paperhangers; Sandblasters; Spray	11.52	.46	.60	.60	.01
Brush Swing stage (over 15 stories)	11.64	.46	.60	.60	.01
Structural steel and bridge swing	11.67	.46	.60	.60	.01
Spray sandblaster swing stage (13 stories or less); Paste Machine; Special coating spray	11.77	.46	.60	.60	.01
Steeplejack	12.52	.46	.60	.60	.01
Plumbers; Steamfitters: Inyo, Kern (except east of Los Angeles Aqueduct) and Mono Counties	10.88	.95	1.85	1.45	.17
Kern County (East of Los Angeles Aqueduct)	13.38	.95	1.85	1.45	.17
Sheet Metal Workers: Imperial County	11.96	1.04	2.24		
Soft Floor Layers: Inyo (including Inyo-Kern Naval Reservation), Kern (East of the Los Angeles Aqueduct), Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Luis Obispo and Ventura Counties	10.32	.65	.62	.55	.05
Kern County (Remaining portions)	9.72	.60	.45	.52	.03
Laborers: Rock Slinger	7.91	.95	1.95	.55	.10

DECISION NO. CA76-5120 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS DREDGING					
(Hydraulic Suction Dredges)					
LEVERMAN	$ 11.80	.95	$ 2.00	.30	.04
WATCH ENGINEER; Welder	11.22	.95	2.00	.30	.04
DECKMATE	10.74	.95	2.00	.30	.04
WINCHMAN (Stern winch or dredge)	10.67	.95	2.00	.30	.04
BARGEMAN; Deckhand; Fireman; Oiler; Leveehand	10.13	.95	2.00	.30	.04
(Clamshell Dredges)					
LEVERMAN	11.80	.95	2.00	.30	.04
WATCH ENGINEER	11.22	.95	2.00	.30	.04
DECKMATE	10.74	.95	2.00	.30	.04
BARGEMATE	10.67	.95	2.00	.30	.04
BARGEMAN; Deckhand; Fireman; Oiler	10.13	.95	2.00	.30	.04
Power Equipment Operators:					
Group 1	9.75	.95	2.00	.50	.04
Group 2	10.03	.95	2.00	.50	.04
Group 3	10.32	.95	2.00	.50	.04
Group 4	10.46	.95	2.00	.50	.04
Group 5	10.68	.95	2.00	.50	.04
Group 6	10.79	.95	2.00	.50	.04
Group 7	10.91	.95	2.00	.50	.04
Group 8	11.08	.95	2.00	.50	.04
Group 9	11.21	.95	2.00	.50	.04

DECISION NO. CA76-5120 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Laborers (Tunnel):					
Changehouseman	$9.23	.95	$1.95	.55	.10
Loading or unloading Agitator Cars; Pot Tender using Mastic or other materials	9.35	.95	1.95	.55	.10
Nozzleman; Operating of Troweling and/or Grouting Machines; Sandblaster	9.51	.95	1.95	.55	.10

DECISION NO. CA76-5121 - Mod. #2
(41 FR 56566-December 28, 1976)
Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California

Change:

Electricians:					
Kern (China Lake Naval Ordnance Test Station, Edwards AFB)					
Electricians; Technicians	$14.82	.70	1%+1.48		.15
Cable Splicers	16.30	.70	1%+1.48		.15
Kern County (Remainder of County)					
Electricians; Technicians	12.32	.70	1%+1.48		.15
Cable Splicers	13.55	.70	1%+1.48		.15
San Bernardino County					
Electricians	11.80	.96	1%+1.65		.04
Cable Splicers	12.10	.96	1%+1.65		.04
San Luis Obispo County					
Electricians	12.26	1.00	1%+1.35		.03
Cable Splicers	13.48	1.00	1%+1.35		.03

DECISION NO. CA76-5121 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Ventura County					
Electricians	$13.03	.84	1%+1.05		.02
Cable Splicers	14.33	.84	1%+1.05		.02
Ironworkers:					
Fence Erectors	10.41	1.14	1.86	1.20	.04
Reinforcing	11.30	1.14	1.86	1.20	.04
Ornamental; Structural	11.30	1.14	1.86	1.20	.04
Painters:					
Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station and Edwards AFB), Los Angeles (except Pomona Area), San Bernardino (West of a line North of Tromo including China Lake Area, Johannesburg, Boron, South including the Wrightwood Area)					
Brush	11.27	.46	.60	.60	.01
Structural steel and bridge; Painter Burner	11.39	.46	.60	.60	.01
Tapers	11.79	.46	.60	.60	.01
Brush swing stage (13 stories or less); Paperhangers; Sandblasters; Spray	11.52	.46	.60	.60	.01
Brush swing stage (over 13 stories)	11.64	.46	.60	.60	.01
Structural steel and bridge, swing	11.67	.46	.60	.60	.01
Spray sandblaster swing stage (13 stories or less); Paste Machine; Special coating spray	11.77	.46	.60	.60	.01
Steeplejack	12.52	.46	.60	.60	.01
Plumbers; Steamfitters:					
Kern (except east of Los Angeles Aqueduct)	10.88	.95	1.85	1.45	.17
Kern County (east of Los Angeles Aqueduct)	13.38	.95	1.85	1.45	.17

DECISION NO. CA76-5121 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet Metal Workers:					
Imperial County	$11.96	$1.04	$2.24		
Soft Floor Layers: (Kern Naval Reservation), Kern (East of the Los Angeles Aqueduct), Los Angeles, Orange, Riverside, Santa Barbara, San Bernardino, San Luis Obispo and Ventura Counties	10.32	.65	.62	.55	.05
Kern County (Remaining portion)	9.72	.60	.45	.52	.03
Laborers:					
Rock Slinger	7.91	.95	1.95	.55	.10
Power Equipment Operators:					
Group 1	9.75	.95	2.00	.50	.04
Group 2	10.03	.95	2.00	.50	.04
Group 3	10.32	.95	2.00	.50	.04
Group 4	10.46	.95	2.00	.50	.04
Group 5	10.68	.95	2.00	.50	.04
Group 6	10.79	.95	2.00	.50	.04
Group 7	10.91	.95	2.00	.50	.04
Group 8	11.08	.95	2.00	.50	.04
Group 9	11.21	.95	2.00	.50	.04
DECISION No. AR-4038 - Mod. #4 (39 FR-34984 - September 27, 1974) Statewide, Georgia					
Change:					
Electricians:					
Zone III	9.95	8%	1% + 8%		½ of 1% .2%
Zone IV	8.95	.50	.50 + 1%		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2015 - Mod. #2 (41 FR 8643 - February 27, 1976) Peoria & Tazewell Counties, Illinois					
CHANGE:					
Boilermakers	$10.95	.65	.95		.03
Bricklayers	10.41	.50	.60		.10
Cement Masons	9.90	.60	.50		.05
Electricians	10.77	.40	1%+.50		1%
Elevator Constructors:					
Constructors	10.445	.545	.35	4%+a&b	.02
Helpers	70%JR	.545	.35	4%+a&b	.02
Helpers (Prob.)	50%JR				
Ironworkers	10.475	.50	.675		.025
Lathers	10.27	.40	.40		.01
Marble-Terrazzo & Tile Workers	10.15	.50	.60		.01
Marble & Tile Helpers	9.44	.50			
Terrazzo Helpers:					
Terrazzo Helpers & Floor Machine Operator; Base Machine Operator	9.57	.50			
Plasterers	10.05	.60	.60		.01
Roofers	10.35	.45	.40		.025
Sheet Metal Workers	10.32	.50	.75		.08
DECISION #IL76-2120 - Mod. #1 (41 FR 43570 - October 1, 1976) Adams, Brown & Pike Counties, Illinois					
CHANGE:					
Bricklayers:					
Bricklayers, Stonemasons, Marble Setters, Terrazzo Workers, Tile Setters, Pointers, Caulkers & Cleaners	9.90		.20		
Carpenters:					
Adams County:					
Carpenters & Soft Floor Layers	9.25	.45	.25		
Millwrights & Piledrivermen	9.50	.45	.25		
Cement Masons	8.60		.50		

MODIFICATIONS P. 23

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2121 - Mod. #2 (41 FR 43573 - October 1, 1976) Champaign & Vermilion Counties, Illinois					
CHANGE:					
Cement Masons:					
Champaign County	$10.975	.35	.25		.025
Roofers:					
Champaign County	10.90	.35	.30		.03
Sheet Metal Workers	10.99	.45	.35		.03
DECISION #IL76-2130 - Mod. #1 (41 FR 47724 - October 29, 1976) Henderson, Henry, Knox, Mercer, Rock Island, Stark & Warren Counties, Illinois					
CHANGE:					
Electricians					
Rock Island & Remainder of Henry County & Mercer Cos.	10.95	.45	5.5%		.03
Glaziers:					
Remainder of Counties	8.75	.55	1.00		
Painters:					
Rock Island, Henry, Mercer, Henderson, Stark & Warren Counties; West of a line extending from N.E. Corner to S.W. Corner of Knox Co.					
Brush & Roller	8.97	.45	.65		.12
Spray & Structural Steel	9.22	.45	.65		.12

MODIFICATIONS P. 24

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2123 - Mod. #3 (41 FR 44612 - October 8, 1976) DuPage, Grundy, Kane, Kendall, Lake, McHenry & Will Counties, Illinois					
CHANGE:					
Bricklayers:					
Kane, Kendall & McHenry Cos:	$10.95	.50	.60		
Marble-Tile & Terrazzo Workers:					
DuPage, Lake & Will Counties					
Marble Setters	11.50	.70		.80	
Electricians:					
Kendall County & Southern ½ of Kane County	12.30	5%	7%		3%
Lake County	11.94	.65	1%+.60		.029
Laborers:					
Kane, Kendall & McHenry Cos.					
Class 1	7.95	.57	1.10		
Class 2	8.05	.57	1.10		
Class 3	8.10	.57	1.10		
Class 4	8.15	.57	1.10		
Class 5	8.20	.57	1.10		
Class 6	8.30	.57	1.10		
Class 7	8.45	.57	1.10		
Roofers:					
Will & Grundy Counties	11.50	.81	.65		
Power Equipment Operators:					
Class I	11.25	.75	.85	.40	.05
Class II	9.95	.75	.85	.40	.05
Class III	8.80	.75	.85	.40	.05
Class IV	7.55	.75	.85	.40	.05

DECISION #IL76-2141 - Mod. #1
(41 FR 47733 - October 29, 1976)
Boone, DeKalb, DuPage, Kane, Kendall, Lake, McHenry & Will Counties, Illinois

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers:					
Boone, Kane, Kendall & McHenry Counties					
Class 1	$7.95	.57	1.10		
Class 2	8.00	.57	1.10		
Class 3	8.05	.57	1.10		
Class 4	8.10	.57	1.10		
Class 5	8.20	.57	1.10		
Class 6	8.30	.57	1.10		
Class 7	8.45	.57	1.10		
Truck Drivers:					
Boone County					
2-3 Axle Trucks	9.00	.40	.65		
4-Axle Trucks	9.15	.40	.65		
5-Axle Trucks	9.35	.40	.65		
6-Axle Trucks	9.55	.40	.65		
Remainder of District #1					
2-3 Axle Trucks	9.05	a23.00	a27.00		
4-Axle Trucks	9.20	a23.00	a27.00		
5-Axle Trucks	9.40	a23.00	a27.00		
6-Axle Trucks	9.60	a23.00	a27.00		

DECISION NO. IN76-2147 - Mod. #3
(41 FR 47747 - October 29, 1976)
Lake, LaPorte, Porter, & St. Joseph Counties, Indiana

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers:					
Lake & Porter Cos.:					
Bricklayers; Marble setters & Stonemasons	$11.45	.45	.55		.02
LaPorte Co.:					
Bricklayers; Marble setters & Stonemasons	11.45	.45	.55		.02
Carpenters:					
St. Joseph Co.:					
Heavy & Highway construction	9.98	.60	.60		.05
Sheet metal workers:					
St. Joseph Co.	10.53	.65	.615		.035
Laborers (Sewer, Tunnel, & Water Construction):					
St. Joseph Co.					
Group 1	7.52	.60	.45		.09
Group 2	7.67	.60	.45		.09
Group 3	7.72	.60	.45		.09
Group 4	7.82	.60	.45		.09
Group 5	7.92	.60	.45		.09
Group 6:					
A.	7.72	.60	.45		.09
B.	7.87	.60	.45		.09
C.	8.32	.60	.45		.09
D.	7.82	.60	.45		.09
Laborers (Heavy & Highway Construction):					
Lake Co.:					
Group 1	7.85	.60	.45		.09
Group 2	8.00	.60	.45		.09
Group 3	8.05	.60	.45		.09
Group 4	8.15	.60	.45		.09
Group 5	8.70	.60	.45		.09
Remaining Cos.:					
Group 1	7.15	.60	.45		.09
Group 2	7.30	.60	.45		.09
Group 3	7.35	.60	.45		.09
Group 4	7.45	.60	.45		.09
Group 5	8.00	.60	.45		.09

MODIFICATIONS P. 27

DECISION NO. IN76-2148 - Mod. #3 (41 FR 47755 - October 29, 1976) Statewide, except Lake, LaPorte, Porter, & St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Elkhart Co.	$9.98	.60	.60		.05
Bartholomew (Camp Atterbury), Boone, Fountain, Hamilton, Hancock, Hendricks, Johnson (except Edinburg), Marion, Montgomery, Morgan (except Washington), Parke (except portion lying west of a line south & north running thru Jessup, Rosedale, Carbondale, & Poland), Putnam, Vermillion (north of the south city limits of Summit Grove), & Warren Cos.	10.45	.60	.30		.08
Remainder of State of Indiana	9.98	.55	.45		.05
Painters:					
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Cos.:					
Brush	7.85				
Sandblasting; Spray	8.85				
Structural steel; Scaffold over 30 ft.	8.10				
Epoxy	9.85				
Lawrence, Martin, & Orange Cos.:					
Repaint:					
Brush; Structural steel	6.60		.15	.20	
Sandblasting	8.50		.15	.20	
New Construction:					
Brush; Structural steel	7.15		.15	.20	
Spray	8.15		.15	.20	
Laborers (Heavy & Highway construction):					
Group 1	7.15	.60	.45		.09
Group 2	7.30	.60	.45		.09
Group 3	7.35	.60	.45		.09
Group 4	7.45	.60	.45		.09
Group 5	8.00	.60	.45		.09

MODIFICATIONS P. 28

DECISION NO. IN76-2148 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Power equipment operators (Tunnel & Sewer construction):					
Adams, Allen, Blackford, DeKalb, Huntington, Jay, Steuben, Wells, & Whitley Cos.:					
Group I	$9.95	.40	.40		.05
Group II	8.95	.40	.40		.05
Group III	8.45	.40	.40		.05
Group IV	7.75	.40	.40		.05
Omit:					
Power equipment operators (Heavy & Highway Construction)					
Laborers (Sewer, Tunnel, & Water Construction)					
Line Construction:					
Clinton (Frankfort only) & Miami (Peru & Grissom AFB)					
Add:					
Power equipment operators (Heavy & Highway Construction)					
Laborers (Sewer, Tunnel, & Water Construction)					
Line Construction:					
Clinton (Frankfort only) & Miami (Peru & Grissom AFB)					

DECISION NO. IN76-2148 Cont'd

POWER EQUIPMENT OPERATORS (Heavy & Highway Construction)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Allen, Benton, Blackford, Carroll, Cass, Clinton, Dekalb, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, & Whitley Counties:					
GROUP I	$10.30	.40	.40		.08
GROUP II	9.20	.40	.40		.08
GROUP III	8.77	.40	.40		.08
GROUP IV	7.96	.40	.40		.08
Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Marshall, Newton, Noble, Pulaski, & Starke Counties:					
GROUP I	9.60	.70	.80		.08
GROUP II	8.50	.70	.80		.08
GROUP III	8.07	.70	.80		.08
GROUP IV	7.26	.70	.80		.08
Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, Dubois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Ripley, Scott, Spencer, Switzerland, Vanderburgh, Warrick, & Washington Counties:					
GROUP I	10.40	.35	.35		.08
GROUP II	9.30	.35	.35		.08
GROUP III	8.87	.35	.35		.08
GROUP IV	8.06	.35	.35		.08
Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, & Warren Counties:					
GROUP I	10.20	.40	.50		.08
GROUP II	9.10	.40	.50		.08
GROUP III	8.67	.40	.50		.08
GROUP IV	7.86	.40	.50		.08

DECISION NO. IN76-2148 Cont'd

LABORERS (Sewer, Tunnel, & Water Construction)	ZONE 2 Basic Hourly Rates	ZONE 2A Basic Hourly Rates	ZONE 3 Basic Hourly Rates	ZONE 4 Basic Hourly Rates	ZONE 5 Basic Hourly Rates
GROUP 1	$7.52	$7.15	$7.20	$6.95	$7.35
GROUP 2	7.67	7.30	7.35	7.10	7.50
GROUP 3	7.72	7.35	7.40	7.15	7.55
GROUP 4	7.82	7.45	7.50	7.25	7.65
GROUP 5	7.92	7.55	7.60	7.35	7.75
GROUP 6:					
A.	7.72	7.35	7.40	7.15	7.55
B.	7.87	7.50	7.55	7.30	7.70
C.	8.32	7.95	8.00	7.75	8.15
D.	7.82	7.45	7.50	7.25	7.65

Fringe Benefits Payments			
H & W	Pensions	Vacation	Education and/or Appr. Tr.
$.60	.45		.09

LINE CONSTRUCTION Clinton (Frankfort only) & Miami (Peru & Grissom AFB)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINEMEN; Heavy equipment operators "A"	$10.03	.45	1%		½ of 1%
CABLE SPLICERS	10.89	.45	1%		½ of 1%
HEAVY EQUIPMENT OPERATORS "B"	8.07	.45	1%		½ of 1%
POWDERMAN; Equipment mechanic	7.89	.45	1%		½ of 1%
SENIOR GROUNDMAN - truck driver with winch	6.61	.45	1%		½ of 1%
GROUNDMAN - truck driver with winch	6.32	.45	1%		½ of 1%
SENIOR GROUNDMAN AFTER 5 YEARS	6.30	.45	1%		½ of 1%
SENIOR GROUNDMAN AFTER 12 MONTHS	6.11	.45	1%		½ of 1%
GROUNDMAN - truck driver without winch	5.65	.45	1%		½ of 1%
GROUNDMAN 0 to 12 MONTHS	5.23	.45	1%		½ of 1%

MODIFICATIONS P. 31

Decision # KY76-1132 - Mod. # 2 (41 FR-52260 - November 12, 1976) Franklin County, Kentucky	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Changes:					
Carpenters	10.00	.30	.30		
Cement masons	10.55				
Elevator constructors	11.00	.545	.35	4%+a+b	.02
Elevator constructors helpers	70%JR	.545	.35	4%+a+b	.02
Elevator constructors helpers (prob.)	50%JR				
Millwrights	10.50	.30	.30		
Painters:					
Brush	9.10				
Spray	9.85				
Piledrivermen	10.80	.30	.30		
Plasterers	9.65				
Plumbers & Steamfitters	11.70	.35	.70		.02
Soft floor layers	10.00	.30	.30		
Add:					
Lathers	9.49		.10		
Drop:					
Footnote (d) for Sheet Metal Workers					

MODIFICATIONS P. 32

DECISION NO. MA76-2095- Mod #3 (41 FR 34501-August 13, 1976) Barnstable County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Elevator Constructors	$11.445	.545	.35	4%+b+c	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+b+c	.02
Elev. constr. helpers (prob.)	50%JR	.545	.35	4%+b+c	.02
Plumbers and steamfitters: Bourne and Sandwich	10.70	.80	.80		.05
DECISION NO. MA76-2096- Mod #3 (41 FR 34505- August 13, 1976) Berkshire County, Massachusetts					
Change:					
Asbestos workers	9.95	.94	1.25		.01
Carpenters and soft floor layers (entire county)	8.79	.55	1.00		.04
Electricians	9.84	.55	1%+.69		.02
Painters:					
Brush and roller	8.92	.65	.40		.03
Spray	11.8933	.8666	.5333		.04
Swing stage under 40' & steel	9.107	.65	.40		.03
Sing stage over 40' and steel	9.42	.65	.40		.03
DECISION NO. MA76-2097- Mod #3 (41 FR 34509- August 13, 1976) Bristol County, Massachusetts					
Change:					
Carpenters and soft floor layers: Attleboro, N. Attleboro, & S. Attleboro	10.20	.60	1.00		.07
Ironworkers: Easton, Mansfield, and N. Easton	10.49	1.00	1.50		.06
Plumbers and steamfitters: Easton	10.70	.80	.80		.05

MODIFICATIONS P. 33

DECISION NO. MA76-2098- Mod #4 (41 FR 34514- August 13, 1976) Essex County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters & soft floor layers:					
Amesbury, Boxford, Georgetown, Groveland, Haverhill, Newbury, Newburyport, Rowley, Salisbury, W.Newbury, Lynn, Lynnfield, Nahant, Saugus, & Swampscott	$10.20	.60	1.00		.07
Andover, Lawrence, Methuen, N. Andover, and W. Andover	10.20	.60	1.00		.02
Plumbers & steamfitters:					
Andover, Georgetown, Groveland, Lawrence, Methuen & N. Andover	10.24	.73	.65		.05

DECISION NO. MA76-2099- Mod #3 (41 FR 34519- August 13, 1976) Franklin County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	9.95	.94	1.25		.01
Carpenters & soft floor layers:					
Leverett, Shutesbury, Sunderland	9.30	.45	1.00		.02
Monroe and Monroe Bridge	8.79	.55	1.00		.04
Remainder of County	9.30	.45	1.00		.02
Painters:					
Brush and roller	8.92	.65	.40		.03
Spray	11.8933	.8666	.5333		.04
Swing stage under 40' & steel	9.107	.65	.40		.03
Swing stage over 40' and steel	9.42	.65	.40		.03
Plumbers and steamfitters:					
Orange	10.02	.60	.45	.40	.05

MODIFICATIONS P. 34

DECISION NO. MA76-2100- Mod #3 (41 FR 34522- August 13, 1976) Hampden County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	$9.95	.94	1.25		.01
Carpenters & soft floor layers	9.65	.45	.65		.02
Ironworkers:					
Ornamental, reinforcing, and structural	10.05	.70	1.75		.09
Painters:					
Brush and roller	8.92	.65	.40		.03
Spray	11.8933	.8666	.5333		.04
Swing stage under 40' & steel	9.107	.65	.40		.03
Swing stage over 40' & steel	9.42	.65	.40		.03

DECISION NO. MA76-2101- Mod #3 (41 FR 35369- August 20, 1976) Hampshire County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	9.95	.94	1.25		.01
Carpenters	9.65	.45	.65		.02
Electricians:					
Middlefield, Cummington, and Plainfield	9.84	.55	11+.69		.02
Painters:					
Brush and roller	8.92	.65	.40		.03
Spray	11.8933	.8666	.5333		.04
Swing stage under 40'- steel	9.107	.65	.40		.03
Swing stage over 40'- steel	9.42	.65	.40		.03

DECISION NO. MA76-2102- Mod #3 (41 FR 37479- September 3, 1976) Middlesex County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Ironworkers: Marlboro & Ayer	10.74	.55	1.40		.06
Remainder of County	10.49	.70	1.50		.06
Plumbers: Acton, Ayer (except portion lying west of the Greenville Branch of the Boston & Maine RR), Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Cranitevillo, Hudson, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westford, and Wilmington	10.52	1.10	.60		.02
Ashby, Ayer (portion lying West of the Greenville Branch of the Boston & Maine RR), Ft. Devens, Groton, Shirley & Townsend	10.02	.60	.45	.40	.05

MODIFICATIONS P. 35

DECISION NO. MA76-2109- Mod #3 (41 FR 35373- August 20, 1976) Norfolk County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Ironworkers: Remainder of County	$10.49	.70	1.50		.06
DECISION NO. MA76-2104- Mod #3 (41 FR 37435- September 3, 1976) Plymouth County, Massachusetts					
Change:					
Ironworkers: Bridgewater, Brockton, Hanover, Hanson, Marfield, Norwell, Pembroke, Rockland, Scituate, W. Bridgewater, and Whitman	10.49	.70	1.50		.06
Plumbers: Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, W. Bridgewater, and Whitman	10.70	.80	.80		.05
DECISION NO. MA76-2105- Mod #3 (41 FR 35377- September 20, 1976) Suffolk County, Massachusetts					
Change:					
Carpenters and soft floor layers	10.20	.60	1.00		.07
Ironworkers-- ornamental, reinforcing, and structural	10.49	.70	1.50		.06

MODIFICATIONS P. 36

DECISION NO. MA76-2106- Mod #4 (41 FR 37409- September 3, 1976) Worcester County, Massachusetts	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters & soft floor layers: Ashburnham, Athol, E.Gardner, E. Templeton, Fitchburg, Gardner, Harvard, Leominster, Lunenburg, N.Leominster, Peterham, Phillipston, Royalston, S.Ashburnham, S. Royalston, Templeton, Westminster, Winchendon, Berlin, Bolton, Clinton, Northboro, Southboro, Westboro, Hopedale, Mendon, Milford, Upton, W.Upton	$10.20	.60	1.00		.07
Hardwick, Warren, W.Brookfield	9.65	.45	.65		.02
Remainder of County	10.30	.50	1.00		.07
Ironworkers: Southboro	10.49	.70	1.50		.06
Painters:					
Warren and W.Warren:					
Brush and roller	8.92	.65	.40		.03
Spray	11.8933	.8666	.5333		.04
Swing stage under 40'- steel	9.107	.65	.40		.03
Swing stage over 40'- steel	9.42	.65	.40		.03
Roofers	10 00	.77	.63		
DECISION #NV77-5004 - Mod. #3 (42 FR 1000 - January 4, 1977) Statewide (excluding the Nevada Test Site and Tonopah Test Range), Nevada					
Change:					
Plumbers; Steamfitters: Remaining Counties and Nye County (north half)	$10.84	.73	.80	$1.95	.10
Terrazzo Workers; Tile Setters: Clark, Esmeralda, Lincoln, Nye County (south half)	11.37	.70	.60		.06

DECISION #NJ76-3248 - Mod. #5
(41 FR 43598 - October 1, 1976)
Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians & Cable splicers:					
Zone 3	$11.90	6%	1% + .45		.05
Zone 5	11.08	6%	1% + .35		.02
Line Construction:					
Zone 3					
Linemen	11.90	6%	1% + .45		½ of 1%
Groundmen & winch operators	9.50	6%	1% + .45		½ of 1%
Painters:					
Zone 4					
New Contruction - Work on all structural steel & iron, steeples, stacks, tanks, flagpoles, all swing work & window jack-work above 2 stories, spray painting & sandblasting & line striping by machinery, all power tools, hazardous materials (ie. creosote, epoxy, acid, pitchmastic & urethanes)	11.75	.55	.55		.05
Roofers:					
Zone 2					
Composition	11.36	1.30	.82	g	
Mechanic II (re-roofing)	5.50	1.30	.82	g	
Slate & tile	10.75	1.00	.50		
Asphalt Shingle:					
Commercial	8.91	1.00	.50		
Re-roofing	8.10	1.00	.50		
Zone 3					
Composition, damp & waterproofing	11.30	.80	.60		
Slate & tile	11.425	.80	.60		
Slate & tile helpers	10.30	.80	.60		
Sheet metal workers:					
Zone 1	10.30	.95	.77		.02

DECISION #NJ76-3248 - Mod. #5 (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Footnote: e. Paid Holidays: A through F plus Washington's Birthday, Good Friday, and Christmas Eve (provided employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday).					
Add:					
Air conditioning & refrigeration mechanics: Installation of refrigeration equipment for any type of building where the combined compressor tonnage does not exceed 5 tons; installation of water-cooled air conditioning that does not exceed 10 tons (includes the piping of component system and the erection of the water tower); installation of air-cooled air conditioning that does not exceed 15 tons.	$ 8.00	.045	.18	r	.04
Footnote: r. Paid Holidays: A through F plus Armistice Day and Washington's Birthday					

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DECISION #NJ76-3249 - Mod. #5
(41 FR 43613 - October 1, 1976)
Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, & Warren Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers, Stone masons, Cement masons & Plasterers:					
Zone 3	$10.65	.84	.65		.02
Zone 5	10.50	.90	.55		
Zone 6	10.80	.65	.60		.02
Electricians & Cable splicers:					
Zone 14	11.00	6%	1% + .50		.02
Glaziers:					
Zone 3	11.35	.85	1.25		.05
Line Construction:					
Zone 1	12.342	7%	8%		½ of 1%
Zone 13					
Linemen, line truck operators, equipment operators, & cable splicers	11.00	6%	1% + .50		½ of 1%
Groudmen	5.42	6%	1% + .50		½ of 1%
Marble setters, Terrazzo workers & Tile setters:					
Zone 2					
Terrazzo workers	10.38	1.21	1.50		
Marble setters, Terrazzo workers & Tile setters Helpers:					
Zone 1					
Terrazzo workers	9.14	.76	1.95		
Roofers:					
Zone 6					
Composition, damp & waterproofing	11.30	.80	.60		
Slate & tile	11.425	.80	.60		
Slate & tile helpers	10.30	.80	.60		

Footnote: f. Paid Holidays: A through F plus Washington's Birthday, Good Friday, and Christmas Eve (provided employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday).

MODIFICATIONS P. 40

DECISION #NJ76-3249- Mod. #5 (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Air conditioning & refrigeration mechanics: Installation of refrigeration equipment for any type of building where the combined compressor tonnage does not exceed 5 tons; the installation of water-cooled air conditioning that does not exceed 10 tons (includes the piping of component system and the erection of water tower); the installation of air-cooled air conditioning that does not exceed 15 tons.	$ 8.00	.045	.18	n	.04

Footnotes:
n. Paid Holidays: A through F plus Armistice Day and Washington's Birthday.

DECISION #NJ76-3252 - Mod. #2
(41 FR 47827 - October 29, 1976)
Bergen, Essex, Hudson, & Passaic Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers, Stone masons, Cement masons & Plasterers:					
Area 3	10.65	.84	.65		.02
Area 5	10.80	.65	.60		.02
Glaziers:					
Essex & Hudson Counties	11.35	.85	1.25		.05
Leadburners	10.73	.40	.25	e	.01

DECISION #NJ76-3252 - Mod. #2 (cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction: Essex County - Linemen, cable splicers, line equipment operators, line truck operators & groundmen	$12.342	7%	8%		½ of 1%
Footnotes: e. Holidays: A through F plus Washington's Birthday, Good Friday, and Christmas Eve (provided employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday).					
Add: Air conditioning & refrigeration mechanics: Installation of refrigeration equipment for any type of building where the combined compressor tonnage does not exceed 5 tons; the installation of water-cooled air conditioning that does not exceed 10 tons (includes the piping of component system and the erection of water tower); the installation of air-cooled air conditioning that does not exceed 15 tons.	8.00	.045	.18	1	.04
Footnote: 1. Paid Holidays: A through F plus Armistice Day and Washington's Birthday.					

DECISION NO. NM76-4182 - Mod. #4
(41 FR 50163 - November 12, 1976)
Statewide, New Mexico

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BOILERMAKERS	$9.65	.75	1.00	.50	.02
BRICKLAYERS-Stonemasons:					
Zone I-A	9.11	.57	.50		.10
Zone I-B	10.11	.57	.50		.10
Zone I-C	10.61	.57	.50		.10
CARPENTERS:					
Zone 2-A	8.70	.85	.90	.60	.20
Zone 2-B	9.70	.85	.90	.60	.20
Zone 2-C	10.45	.85	.90	.60	.20
MILLWRIGHTS-PILEDRIVERMEN					
Zone 1	9.20	.85	.90	.60	.20
Zone 2	10.20	.85	.90	.60	.20
Zone 3	10.95	.85	.90	.60	.20
ELECTRICIANS					
ZONE IV					
4-A	9.45	.60	1%		.01
4-B	9.80	.60	1%		.01
4-C	9.95	.60	1%		.01
4-D	10.20	.60	1%		.01
CABLE SPLICERS					
4-A	9.80	.60	1%		.01
4-B	10.15	.60	1%		.01
4-C	10.30	.60	1%		.01
4-D	10.55	.60	1%		.01
GLAZIERS (Zone -2)	8.54	.35	.20		.02
LATHERS (Zone - 2)	10.00				.01
PAINTERS - ZONE VI:					
6-A	6.55				
6-B	7.20				
6-C	6.80				
6-D	6.65				
6-E	7.30				
6-F	7.05				
SOUND INSTALLERS:					
SOUNDMAN					
Zone 1	9.30	.60	1%		1/2%
Zone 2	10.46	.60	1%		1/2%
Zone 3	12.79	.60	1%		1/2%

MODIFICATIONS P. 43

DECISION NO. NM76-4182 - Mod. #4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
SOUND INSTALLERS (CONT'D)					
TECHNICIANS					
Zone 1	$ 7.44	.60	1%		1/2%
Zone 2	8.60	.60	1%		1/2%
Zone 3	10.93	.60	1%		1/2%
INSTALLERS					
Zone 1	6.05	.60	1%		1/2%
Zone 2	7.21	.60	1%		1/2%
Zone 3	9.54	.60	1%		1/2%

MODIFICATIONS P. 44

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX76-4140 - Mod. #5 (41 FR 33184 - August 6, 1976) Bexar County, Texas					
Change:					
Plumbers & pipefitters	$10.10	.40	.55		.10
DECISION #TX77-5005 - Mod. #1 (42 FR 4102 - January 21, 1977) Bell, Bosque, Coryell, Falls, Hill & McLennan Counties, Texas					
Change:					
Incidental Paving & Utilities (Bell and Coryell Counties):					
Air Tool Man	$ 3.00				
Asphalt Heaterman	3.40				
Asphalt Raker	3.90				
Batching Plant Scaleman	4.20				
Carpenter	4.00				
Carpenter Helper	3.00				
Concrete Finisher (Paving)	4.25				
Concrete Finisher Helper (Paving)	3.25				
Concrete Finisher (Structures)	4.20				
Concrete Finisher Helper (Structures)	3.45				
Concrete Rubber	3.35				
Electrician	6.00				
Electrician Helper	4.00				
Form Builder (Structures)	4.00				
Form Builder Helper (Structures)	3.25				
Form Setter (Paving & Curb)	3.85				
Form Setter (Structures)	4.25				
Form Setter Helper (Structures)	3.25				
Laborer, Common	2.50				
Laborer, Utility Man	3.00				
Mechanic	4.50				
Mechanic Helper	4.00				
Oiler	3.25				
Serviceman	3.50				
Painter (Structures)	5.25				
Pipelayer (Concrete & Clay)	3.35				
Pipelayer Helper (Concrete & Clay)	3.00				

MODIFICATIONS P. 45

DECISION #TX77-4005 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers:					
Zone 1 - 35 miles from Waco, Texas including town of Temple	$ 8.26	.30	.30		.03
Zone 2 - all area not included in Zone 1	8.66	.30	.30		.03
Powderman	4.50				
Reinforcing Steel Setter (Structures)	4.00				
Reinforcing Steel Setter Helper	3.00				
Sign Erector	3.25				
Sign Erector Helper	3.00				
Spreader Box Man	4.00				
Swamper	3.30				
Power Equipment Operators:					
Asphalt Distributor	3.95				
Asphalt Paving Machine	4.00				
Broom or Sweeper Operator	3.15				
Bulldozer, 150 HP & Less	4.00				
Bulldozer, over 150 HP	4.40				
Concrete Paving Curing Machine	3.50				
Concrete Paving Saw	3.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.20				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & Over)	4.50				
Crusher or Screening Plant Op.	4.15				
Foundation Drill Operator (Crawler Mounted)	3.50				
Foundation Drill Operator (Truck Mounted)	4.35				
Foundation Drill Op. Helper	3.00				
Front End Loader (2½ CY & Less)	4.00				
Front End Loader (Over 2½ CY)	4.25				
Motor Grader Op., Fine Grade	5.00				
Motor Grader Operator	4.25				
Roller, Steel Wheel (Plant-Mix Pavements)	3.00				

MODIFICATIONS P. 46

DECISION #TX77-4005 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	$ 3.30				
Roller, Pneumatic (Self-Propelled)	3.40				
Scrapers (17 CY and Less)	3.75				
Scrapers (Over 17 CY)	4.00				
Tractor (Crawler Type) 150 HP and Less	3.35				
Tractor (Crawler Type) over 150 HP	3.75				
Tractor (Pneumatic) 80 HP and Less	3.25				
Tractor (Pneumatic) over 80 HP	3.75				
Traveling Mixer	3.60				
Trenching Machine, Light	3.25				
Trenching Machine, Heavy	3.85				
Wagon Drill, Boring Machine or Post Hole Driller Op.	3.75				
Truck Drivers:					
Single Axle, Light	3.25				
Lowboy-Float	3.35				
Weighman (Truck Scales)	2.50				
Welder	4.15				
Welder Helper	3.25				

DECISION #VA76-3213 - Mod. #4
(41 FR 32187 - July 30, 1976)
Henrico County and the Independent City of Richmond, Virginia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	$ 9.03	.65	.40		.01
Electricians:					
Zone 1	9.94	5%	1%		½ of 1%
Zone 2	10.69	5%	1%		½ of 1%
Elevator constructors:					
Mechanics	9.045	.545	.35	4%+a+b	.02
Helpers	6.33	.545	.35	4%+a+b	.02
Probationary helpers	4.52				
Leadburners	10.75	.40	.25	c	.01
Linemen:					
Zone 1	9.94	5%	1%		½ of 1%
Zone 2	10.69	5%	1%		½ of 1%

Footnote:
c. Holidays: A through F plus Washington's Birthday, Good Friday, and Christmas Eve (provided employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday).

DECISION #VA76-3214 - Mod. #4
(41 FR 32189 - July 30, 1976)
The Independent Cities of Norfolk, Chesapeake, Portsmouth, & Virginia Beach, Virginia

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Ironworkers:					
Structural, ornamental, machinery movers, riggers, fence erectors and reinforcing	$ 9.30	.55	.70		.06
Lathers	9.54		.25		.01
Leadburners	10.75	.40	.25	c	.01
Marble setters	7.00	.60	.20		
Plumbers & steamfitters	9.00	.55	.45		.06
Terrazzo workers	7.00	.60	.20		
Tile setters	7.00	.60	.20		

Footnote:
c. Holidays: A through F plus Washington's Birthday, Good Friday, and Christmas Eve (provided employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday).

MODIFICATIONS P. 49

DECISION #VA76-3215 - Mod. #4 (41 FR 32191 - July 30, 1976) York County and the Independent Cities of Hampton and Newport News (including Langley AFB, Fort Eustis, and Fort Monroe), Virginia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Ironworkers:					
Structural, ornamental, riggers, reinforcing, fence erectors & machinery movers	$ 9.30	.55	.70		.06
Lathers	9.54		.25		.01
Terrazzo workers & tile setters	8.05				
Add:					
Leadburners	10.75	.40	.25	c	.01
Footnote:					
c. Holidays: A through F plus Washington's Birthday, Good Friday, and Christmas Eve (provided employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceeding and following the holiday).					

DECISION NO. WI76-2045 - MOD. #3 (41 FR 16425 - April 16, 1976) Statewide, Wisconsin					
Change:					
Carpenters and Piledrivermen:					
Zone 9 - Milwaukee, Ozaukee, Washington & Waukesha Counties:					
Carpenters	$ 9.76	.80	.70	.51	.06
Piledrivermen	10.21	.80	.70	.51	.06

SUPERSEDEAS DECISION

STATE: Arkansas COUNTY: Sebastian, Crawford & Washington

DECISION NO.: AR77-4018 DATE: Date of Publication

Supersedes Decision No. AR76-4132 dated July 23, 1976 in 41 FR 30511

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS (Washington County)	$ 10.35	.35	.72		.02
ASBESTOS WORKERS (Sebastian & Crawford County)	10.80	.35	.60		.015
BOILERMAKERS	10.00	.50	1.00		.02
BRICKLAYERS-Stonemasons	8.55	.40	.25		.02
CARPENTERS (Sebastian & Crawford):					
Carpenters	7.75	.45	.35		.03
Millwrights & Piledrivermen	8.50	.45	.35		.03
CARPENTERS (Washington Co.):					
Carpenters	7.25		.35		.04
Millwrights & Piledrivermen	7.75		.35		.04
CEMENT MASONS	8.27	.25			.03
ELECTRICIANS:					
Electricians	9.40	.35	1%+5.5%		¼%
Cable splicers	9.65	.35	1%+5.5%		¼%
ELEVATOR CONSTRUCTORS	8.09	.495	.32	3%+a+b	.02
" " helpers	70%JR	.495	.32	3%+a+b	.02
" " " (prob.)	50%JR				
GLAZIERS (Washington Co.)	6.25				
GLAZIERS (Sebastian & Crawford Co.)	5.95				
IRONWORKERS	9.35	.45	.50		.10
LABORERS:					
Group I	5.82	.25	.35		.04
Group II	6.07	.25	.35		.04
Group III	6.22	.25	.35		.04
Group IV	6.32	.25	.35		.04
Group V	6.47	.25	.35		.04
Group VI	6.72	.25	.35		.04
Group VII	6.62	.25	.35		.04

LABORERS CLASSIFICATION DEFINITIONS

Group I - Construction laborers, concrete labor, wrecking labor, mechanic's labor, excavating labor, plumber's labor, electricians labor, green cutter, blowpipe, and concrete pump hose placer

Group II - Semi-skilled laborer: pipelayers, concrete, clay and mechanical tool, cement mixer, wet or dry finishers, and plasterers, mason tender, mortar mixers, asphalt rakers and shovelers, creosote wood handlers, chuck tender

Group III- Steelform setters, curb and gutters, grout and cement muckers

Group IV - Swinning scaffold, Barco, 90 lb pavement breaker, and burners

LABORERS CLASSIFICATION DEFINITIONS CONT'D

Group V - Nozzleman (Gunnite, Grout, and sand blasterer; concrete pump (nozzle placer)

Group VI - Powderman & blasterers

Group VIII - Wagon drill

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Lineman; operator	$ 9.15	.35	1%		¼%
Cable splicers	9.30	.35	1%		¼%
Powderman	90%JR	.35	1%		¼%
Truck driver	75%JR	.35	1%		¼%
Groundman	65%JR	.35	1%		¼%
Groundman	59%JR	.35	1%		¼%
PAINTERS (SEBASTIAN & CRAWFORD CO.):					
Brush painters	6.50				
Roller work, sheetwork, finishing by machinery	6.75				
Spray painting	7.50				
Swing stage work	6.75				
Sandblasting - steam cleaning	7.50				
All pipe and steel	7.25				
All mitten and glove painting	7.50				
PAINTERS (Washington Co.):					
Group I	7.70				
Group II	7.70				
Group III	8.70				
Group IV	8.70				
Group V	7.95				
Group VI	9.575				
Group VII	8.325				

PAINTERS CLASSIFICATION DEFINITIONS

GROUP I - brush, mitt used on pipes, only; preparatory work before papering or canvassing roller with handler up to six feet long.
GROUP II - Hanging vinyl or wallpaper, drywall taping
GROUP III - Use of Bazooka, Banjo and Ames machine tools
GROUP IV - Spraying (except where listed below); sandblasting
GROUP V - Potman assisting sprayer (except where listed below)
GROUP VI - Spraying expoxies, polyesters or material where hood and extra safety features are required
GROUP VII - Brush on structural steel, stacks, tanks, swinging stage, bosun chairs

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	7.80				.02
PLUMBERS & STEAMFITTERS	9.55	.30	.35		.02
POWER EQUIPMENT OPERATORS:					
Group I	9.20	.35	.35		
Group II	8.36	.35	.35		
Group III	7.98	.35	.35		
Group IV	6.60	.35	.35		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group I - Cranes, draglines, shovels and piledrivers with a lifting capacity of 50 tons or over, and operators of all towers, climbing cranes, and derricks required to work 25 feet or over from the ground, blacksmith, mechanics and/or welders

Group II - Hydraulic cranes, cherry pickers, backhoes and all derricks with a lifting capacity less than 50 tons, as specified by the manufacturer, all backhoes, tractor or truck type, all overhead and traveling cranes, or tractors with swinging boom attachments, gradealls, all above equipment irrespective of motive power, leverman (engineer), hydraulic or bucket dredges, irrespective of size

Group III - HEAVY EQUIPMENT OPERATORS: All bulldozers, all front end loaders, all sidebooms, skytracks, all push tractors, all pull scrapers, all motor graders, all trenching machines, regardless of size or motive power, all back fillers, all central mixing plants, 10S and larger, finishing machines, all boiler firemen high or low pressure, all asphalt spreaders, hydro truck crane, multiple drum hoist, irrespective of motive power, all rotary, cable tool core drill or churn drill, water well and foundation drilling machines, regardless of size regardless of motive power and dredge tender operator

Group IV - LIGHT EQUIPMENT OPERATORS: Oilerdriver motor crane, single drum hoists, winches and air tuggers, irrespective of motive power, winch or A-frame trucks, forklifts, rollers of all types and pull tractors, regardless of size, elevator operators inside and outside when used for carrying workmen from floor to floor and handling building material, Lad-A-Vator, conveyor, batch plant, and mortar or concrete mixers, below 10S, end dump Euclid, pumpcrete, spray machine and pressure grout machine, air compressors, regardless of size, all equipment, welding machines, light plants, pumps, all well point system dewatering and portable pumps, space heaters, irrespective of size, and motive power, equipment greaser, oiler, mechanic helper, drilling machine helper, asphalt distributor, and like equipment, safety boat operator and deckhand

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 7.60		.10		
SHEET METAL WORKERS	9.65	.40	.40		.02
SPRINKLER FITTERS	9.87	.60	.90		.08

Welders - receive rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a-1st 6 mos. - none; 6 months to 5 yrs. 2%; over 5 yrs. 4% of basic hourly rate.

b-Paid Holidays A through F

PAID HOLIDAYS: A-New Years' Day; B-Memorial Day; C-Indenpendence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

SUPERSEDEAS DECISION

STATE: Hawaii COUNTIES: Statewide
DECISION NUMBER: HI77-5010 DATE : Date of Publication
Supersedes Decision No. HI76-5092 dated September 24, 1976 in 41 FR 42099
DESCRIPTION OF WORK: Building (including single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.03	.58	$ 1.40		.05
BOILERMAKERS	9.73	.65	1.00		.03
BRICKLAYERS; Stonemasons	7.45	.65	.75		.10
CARPENTERS:					
Carpenters; Hardwood Floor-layers; Patent Scaffold Erectors; Pneumatic Nailer; Shinglers	8.64	.62	1.40	.85	.06
Millwrights	8.89	.62	1.40	.85	.06
Power Saw Operator (2 HP and above)	8.79	.62	1.40	.85	.06
CEMENT MASONS:					
Cement Masons	8.10	.85	1.00	.30	.10
Trowel Machine Operators	8.25	.85	1.00	.30	.10
DRYWALL APPLICATOR	8.64	.62	1.40	.85	.06
ELECTRICIANS:					
Electricians; Linemen	9.62	4%+.60	13%+1.74	11.2%	.20
Technicians	9.91	4%+.60	13%+1.74	11.2%	.20
Line Equipment Men	8.66	4%+.60	13%+1.74	11.2%	.20
Groundmen	7.22	4%+.60	13%+1.74	11.2%	.20
Cable Splicers	10.58	4%+.60	13%+1.74	11.2%	.20
ELEVATOR CONSTRUCTORS	10.68	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
FENCE ERECTORS (Chain Link)	4.70	.19	.24	.10	.04
GLAZIERS	9.64	.96	.85	.97	.12
IRONWORKERS:					
Bridge; Ornamental; Reinforcing; Structural	9.65	.80	.85	.86	.05
LATHERS	9.86	.66	.85		.04
LINE CONSTRUCTION WORKERS:					
Electricians; Linemen	9.62	4%+.60	13%+1.74	11.2%	.20
Technicians	9.91	4%+.60	13%+1.74	11.2%	.20
Line Equipment Men	8.66	4%+.60	13%+1.74	11.2%	.20
Groundmen	7.22	4%+.60	13%+1.74	11.2%	.20
Cable Splicers	10.58	4%+.60	13%+1.74	11.2%	.20

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	$ 7.95	.65	.75		.10
PAINTERS:					
Brush	9.00	.68	2.00	.10	
Tapers	9.20	.68	2.00	.10	
Spray	9.50	.68	2.00	.10	
PLASTERERS	8.95	.85	1.00	.15	.16
PLASTERERS' HOD CARRIERS:					
Hod Carriers	7.06	.59	.76	.33	.13
Mortar Mixers	7.26	.59	.76	.33	.13
PLUMBERS; Steamfitters	9.80	1.09	1.70	1.25	.20
ROOFERS	9.15	.80	.50		.10
SHEET METAL WORKERS	10.05	.76	1.82+.40	.88	.30+.02
SOFT FLOOR LAYERS	9.30	.60	.40	.15	.08
SPRINKLER FITTERS	11.26	.60	.90		.08
TERRAZZO WORKERS:					
Terrazzo Workers and Tile Setters	7.95	.65	.75		.10
Terrazzo Base Grinder	7.19	.65	.75		.10
Terrazzo and Tile Helpers	6.14	.65	.75		.10
TRUCK DRIVERS:					
Flatbed	7.68	.65	.70		
Dump, 8 yds. and under; Water truck (up to and including 2000 gallons)	7.95	.65	.70		
Water truck (over 2000 gals.)	8.26	.65	.70		
Tandem, Semi-trailer or Semi-dump	8.91	.65	.70		
Slip-in or pump	9.23	.65	.70		
End dumps, unlicensed (Euclid, Mack, Caterpillar or similar); Tractor trailer (hauling equipment)	9.34	.65	.70		

RIGGERS; WELDERS: Receive rate prescribed for craft performing operation to which rigging or welding is incidental.

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DREDGING:					
Hydraulic suction dredges; Clamshell dredges; Boat operators; Derricks:					
Leverman	$ 10.04	.65	$ 1.70	.70	.15
Operators (Derricks, Pile-drivers and Cranes)	10.29	.65	1.70	.70	.15
Assistant Engineer (steam or electric)	9.68	.65	1.70	.70	.15
Welder	9.68	.65	1.70	.70	.15
Boat Operator	9.74	.65	1.70	.70	.15
Deckmate; Barge Mate (seagoing)	9.23	.65	1.70	.70	.15
Winchman (stern winch on dredge)	8.91	.65	1.70	.70	.15
Fireman	7.95	.65	1.70	.70	.15
Oiler; Deckhand (can operate anchor scow under direction of deckmate)	7.68	.65	1.70	.70	.15
Boat Deckhand	7.13	.65	1.70	.70	.15
Leverman; Bargeman	7.51	.65	1.70	.70	.15
Master Boat Operator	10.04	.65	1.70	.70	.15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
Group 1	$ 7.21	.64	.76	.33	.13
Group 1-a	7.71	.64	.76	.33	.13
Group 1-b	7.71	.64	.76	.33	.13
Group 1-c	7.96	.64	.76	.33	.13
Group 1-d	8.16	.64	.76	.33	.13
Group 1-e	6.80	.64	.10	.33	
Group 2	7.46	.64	.76	.33	.13
Group 3	7.66	.64	.76	.33	.13
POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)					
Group 1	7.40	.65	1.70	.70	.15
Group 2	7.51	.65	1.70	.70	.15
Group 3	7.68	.65	1.70	.70	.15
Group 4	7.95	.65	1.70	.70	.15
Group 5	8.26	.65	1.70	.70	.15
Group 6	8.91	.65	1.70	.70	.15
Group 7	9.23	.65	1.70	.70	.15
Group 8	9.34	.65	1.70	.70	.15
Group 9	9.45	.65	1.70	.70	.15
Group 9-A	9.68	.65	1.70	.70	.15
Group 10	9.74	.65	1.70	.70	.15
Group 10-A	9.89	.65	1.70	.70	.15
Group 11	10.04	.65	1.70	.70	.15
Group 12	10.40	.65	1.70	.70	.15
Asphalt Paving Group:					
Asphalt Raker	7.95	.65	1.70	a	
Asphalt Roller	8.91	.65	1.70	a	
Asphalt Spreader	9.23	.65	1.70	a	

FOOTNOTE:

a. An employee who has completed two to five years service shall receive a vacation of one week with pay; each additional year an additional one day vacation with pay; ten or more years, a vacation of two weeks each year; for each year of completed service thereafter to and including fifteen years service, an addition of one day vacation with pay; fifteen or more years of service, a vacation of three weeks each year with pay.

LABORERS

Group 1: All clean-up work of debris, grounds and buildings; Bridge Laborers; Construction Laborers; Dumpman; General Laborers; Limbers, Brush Loaders and Pilers; Maintenance, repair (track and roadbeds)

Group 1-a: Mason Tenders

Group 1-b: High Scaler

Group 1-c: Gunnite Operator

Group 1-d: Powderman

Group 1-e: Landscape and Irrigation Laborers

Group 2: Asphalt Shovelers; Cement Dumpers; Choker Setter and Rigger (clearing work); Concrete Chipping; Driller's Helper; Chuck Tender; Outside Nipper; Guinea Chaser (Stakeman); High Pressure Nozzleman-hydraulic monitor (over 100# pressure) excluding levee work; Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete construction; Sloper; All pneumatic, gas and electric tools not listed in Group 1

Group 3: Asphalt Ironers and Rakers; Barko and similar type tampers; Buggymobile; Chainsaw, Faller, Logloader and Bucker; Concrete Laborers (wet or dry) including Bucket Tender for concrete; Concrete and Magnesite Mixer under 1/2 yard; Concrete Grinder; Concrete Pan Work; Concrete Saw (walking or hand type); Cribbers; Cut Granite Curb Setters; Form Raisers; Header Board; Mortar Mixers (block-brick-masonry); Jackhammer Operator; Jackson and similar type Compactors; Lagging, Sheeting, Whaling, Bracing, Trench-jacking, Hand-guided Lagging Hammer; Magnesite and Mastic workers (wet or dry); Mechanical Drillers not covered elsewhere; Pavement Breakers; Pipelayers, Caulkers, Bander; Pipewrappers, Kettlemen, Potmen and men applying asphalt, Lay-Kold, Creosote and similar type materials; Post Hole Diggers (hand held - gas, air and electric); Riprap, Stonepaver and Rockslinger, including placing of sacked concrete (wet or dry); Rotary Scarifier; Roto-tiller; Sandblasters; Tank Cleaners; Tree Climbers; Vibra-screed (bull float in connection with Laborers' work); Vibrator, Burning, Welding, Signaling and Rigging in connection with Laborers' work; Concrete Pump Machine; Joy Drill Model TWM-2A, Gardner, Denver DH-143 and similar type drills; Track Drillers, Diamond Core, Wagon Drillers and Davis Trencher T-66 or similar types

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Partsman (heavy duty shop parts room when needed); Repairman Helper

Group 2: Compressor, electrically, diesel or gas powered etc.; Hydraulic Monitor; Material Loader and/or Conveyor Operator (handling building material); Mixer Box Operator (concrete plant); Pump Operator; Spreader Boxman (with screeds); Tar Pot Fireman (power agitated)

Group 3: Oiler; Fireman; Switchman; Brakeman; Deckhand; Tar Pot Fireman; Box Operator (bunker); Locomotive (up to and including 30 tons); Roller (5 tons and under); Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Tugger Hoist, single drum

Group 4: Boom Truck or Dual Purpose "A" Frame Truck; Fork Lift or Lumber Stacker (construction job site); Material Hoist (1 drum); Straddle Truck; Ross Carrier and similar (jobsite); Dinky Operator

Group 5: Concrete Mixer (up to 2 yards); Concrete Pumps or Pumpcrete Guns; Generators, gasoline or diesel driven (100 K.W.); Lubrication and Service Engineer (mobile and grease rack); Towermobile; Welding Machine (gasoline or diesel); Agri-cat (Kini Cat)

Group 6: Combination Loader and Backhoe including Hopto (up to and including 1/2 yard); Concrete Batch Plants (wet or dry); Concrete Saws and/or Grinder (self-propelled unit on streets, highways, airports and canals); Drilling Machinery (not to apply to waterliners, wagon drills or jackhammers); Highline Cable-way Signalman; Loader (up to and including 2½ cu. yds.); Lull High Lift; Pavement Breaker; Maginnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mechanical Finishers (concrete) (large Clary, Johnson Bidwell Bridge Deck or similar types); Mobile Crane Driver; Portable Crushers; Power Jumbo Operator (setting slip forms, etc. in tunnels); Rollers (over 5 tons); Self-propelled Compactor (single engine); Small Rubber-tired Tractors; Trencher (up to and including 6'); Slip Form Pumps (power driven hydraulic, electric, gas, etc., lifting device for concrete forms

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 7: Crusher Plant; Dual Drum Mixer; Gradesetter; Hoist (2 drums); Loader (over 2½ cu. yds. up to and including 5 cu. yds.); Mechanical Finishers or Spreader Machine, Asphalt (Barber Greene and similar)(Screedman required); Mine or Shaft Hoist; Pavement Breaker, Truck mounted, with Compressor combination; Pavement Breaker with Compressor Combination (operates 1 or 2); Pipe Cleaning Machine (tractor propelled and supported); Pipe Wrapping Machine (tractor propelled and supported); Pipe Bending Machine (pipe lines only); Self-propelled Elevating Grader Plane; Slusher Operator; Trencher (over 6 '); Water Tanker (pulled by Euclid, T-Pulls DW-10, 20, 21 or similar); Mixermobile (over 5 tons); Small Tractor (with boom D-6 or similar)

Group 8: Boring Machine; Cast-in-place Pipe Laying Machine; Concrete Batch-Plant (multiple units); Combination Loader and Hydraulic Backhoe (over 1/2 yd. to and including 3/4 yd.); Conveyor (tunnel); Engineer, Locomotive (over 30 tons up to and including 100 tons); Finishing Machine Operator (airports and highways); Hydraulic Backhoe (over 1/2 yard to and including 3/4 yard); Kolman Loader; Mechanic Trench Shield; Mucking Machine; No-joint Pipe Laying Machine; Portable Crushing and Screening Plants; Saurman type Dragline (under 5 yards); Self-propelled Boom type Lifting Device; Stationary Pipe Wrapping, Cleaning and Bending Machine; Surface Heater and Planer; Tunnel Badger; Tri-batch Paver

Group 9: Boom type Backfilling Machine; Combination Mixer and Compressor (gunite); Do-more Loader and Adams Elegrader; Lull Hi-lift (40' or over); Rubber-tired Earthmoving Equipment (up to 12 cu. yds.); Wheel Trencher (over 6')

Group 9-A: Dozers; Heavy Duty Repairman or Welder; Push Cats; Scrapers; Self-propelled Compactor with dozer; Sheep Foot; Tractors; Tractors (with boom, larger than D-6 and similar)

Group 10: Chicago Boom; Hoist (3 drums); Koehring Skooper; Loader (over 5 yards up to and including 12 yards); Locomotive (over 100 tons)(single or multiple units); Power Blade Operator; Rubber-tired Earthmoving Equipment (up to and including 35 cu. yds., Euclid, T-Pulls, DW-10, 20, 21 and similar); Saurman type Dragline (5 yards or over); Soil Stabilizer (P & H equal); Sub-grader (Gurries or other automatic type); Track-laying type Earthmoving Machine (single engine with tandem scraper); Tractor, Compressor, Drill Combination; Tractor (tandem scraper); Tractors (D-9 or equivalent)

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 10-A: Cranes (not over 25 tons); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (up to and including 1 cu. yds.)

Group 11: Automatic Skip Form Paver (concrete or asphalt) (Gradesetter, Screedman required); Cranes (over 25 tons); DW-10, 20, etc. (Tandem); Earthmoving Machine (multiple propulsion power units and two or more scrapers) (up to and including 35 cu. yds. struck "MRC"); Highline Cableway; Lift Slab Machine; Loader (over 12 yards); Power Shovels, Clamshells, Draglines, Backhoes, Gradealls (over 1 yard and up to 7 yards); Power Blade Operator (16 or over); Pres-stress Wire Wrapping Machine; Self-propelled Compactor (with multiple propulsion power units); Single Engine Rubber Tired Earth Moving Machine (with tandem scraper); Tandem Cats; Tower Cranes, Mobile; Trencher (pulling attached shield); Universal, Liebher, Linden and similar types of tower cranes; Wheel Excavator (up to and including 750 cu. yds. per hour)

Group 12: Band Wagon (in conjunction with wheel excavator); Derricks; Drill Rigs; Multi-propulsion Earth Moving Machines (2 or more scrapers) (over 35 cu. yds. "struck" MRC); Power Shovels and Draglines (7 cu. yds. and over); Rubber-tired Earthmoving Equipment (over 35 cu. yds. Euclids, T-Pulls, DW-10, 20, 21 and similar); Wheel Excavator (over 750 cu. yds.)

SUPERSEDEAS DECISION

STATE: Indiana
DECISION NUMBER: IN77-2006
COUNTIES: *See Below
DATE: Date of Publication
Supersedes Decision No. IN76-2146 dated October 29, 1976, in 41 FR 47737.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

*Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh & Vigo

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Allen & Grant Counties	$11.45	.50	.75		
Bartholomew, Benton, Delaware, Marion, Monroe, Tippecanoe, & Vigo Counties	11.43	.50	.35		.05
Dearborn County	9.96	.45	.85		.02
Vanderburgh County	10.70	.45	.40		.03
BOILERMAKERS:					
Dearborn County	8.30	.30	.70		.01
Remainder of Counties	11.70	.80	1.00		.03
BRICKLAYERS:					
Allen County:					
Bricklayers; Marble setters & Stonemasons	9.79	.45	.30		.01
Bartholomew, & Monroe Counties:					
Bricklayers; Marble setters; Stonemasons; Terrazzo workers & Tile setters	9.40	.40	.30		.02
Benton & Tippecanoe Counties:					
Bricklayers; Marble Setters Stonemasons	9.85	.48	.35		.01
Terrazzo workers & Tile setters	9.85	.48	.35		.01
Dearborn County	9.00		.30		
Delaware County:					
Bricklayers; Marble setters; & Stonemasons	9.30	.50	.45		.01
Tile setters	9.05	.50	.45		.01
Grant County:					
Bricklayers; Marble setters; Stonemasons; Terrazzo workers & Tile setters	9.00	.70	.40		
Marion County:					
Bricklayers; & Stonemasons	10.60	.40	.30		.06
Marble setters ; & Tile setters	10.46	.30	.30		.04
Terrazzo workers	10.20	.30	.30		.03
Vanderburgh County:					
Bricklayers; Stonemasons	9.88	.75	.30		
Marble setters; Terrazzo workers; & Tile setters	9.70		.30		
Vigo County:					
Bricklayers; Stonemasons	10.35	.40	.70		.01
Marble setters; Terrazzo workers & Tile setters	9.95	.40	.70		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Allen County:					
Carpenters; & Soft floor layers	$9.45	6%a			.05
Millwrights; & Piledrivermen	9.78	6%a			.05
Bartholomew County (Camp Atterbury) & Marion County:					
Carpenter; Millwrights	11.05	.50	.60		.08
Bartholomew County (Remainder of County):					
Carpenters; & Soft floor layers	8.89	.55	.65		.03
Millwrights	9.39	.55	.65		.03
Piledrivermen	9.14	.55	.65		.03
Benton; & Tippecanoe Counties:					
Carpenters & Soft floor layers	9.36	.40	.40		.02
Millwrights; & Piledrivermen	9.71	.40	.40		.02
Dearborn County:					
Carpenters; & Soft floor layers	8.94	.55	.65		.03
Millwrights	9.44	.55	.65		.03
Piledrivermen	9.19	.55	.65		.03
Delaware County:					
Carpenters; Soft Floor layers	9.20	.50	.35		.08
Piledrivermen	9.40	.50	.35		.08
Millwrights	9.50	.50	.35		.08
Grant County:					
Carpenters	8.93	.60	.60		.05
Piledrivermen	9.13	.60	.60		.05
Millwrights	9.43	.60	.60		.05
Monroe County:					
Carpenters; Soft floor layers	9.10	.60	.35		.01
Millwrights & Piledrivermen	9.35	.60	.35		.01
Vanderburgh County:					
Carpenters; Soft floor layers	9.37	.40	.60		
Piledrivermen	9.62	.40	.60		
Millwrights	9.79	.40	.60		
Vigo County:					
Carpenters; Soft floor layers	9.38	.45	.55		.02
Piledrivermen	9.63	.45	.55		.02
Millwrights	9.88	.35	.40		.02
CEMENT MASONS:					
Allen County	9.05	.75			.01
Bartholomew County	8.30				
Benton & Tippecanoe Counties	8.60	.45	.65		

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (Cont'd)					
Dearborn County	$ 6.50				
Delaware & Grant Counties	9.05	.60			
Marion County	9.41	.65	.25		.04
Monroe County	8.25				
Vanderburgh County	9.00	.65	.55		
Vigo County	9.55	.60	.25		
ELECTRICIANS:					
Allen County	10.70	.40	1%+.30		.06
Bartholomew & Marion Counties	11.00	4%	3%		.5%
Benton & Tippecanoe Counties	10.80	.40	1%		½ of 1%
Dearborn County:					
Up to & including 18-mile radius from Hamilton County, Ohio Court House	11.30	.70	1%+.40		.5%
Over 18-mile radius up to & including 21 mile-radius from Hamilton County, Ohio Court House	11.60	.70	1%+.40		.5%
Over 21-mile radius up to & including 25-mile radius from Hamilton County, Ohio Court House	11.70	.70	1%+.40		.5%
Over 25-mile radius from Hamilton County, Ohio Court House	11.85	.70	1%+.40		.5%
Delaware County	10.55	.40	1%+.30		.2%
Grant County	10.30	.40	1%+.30		.2%
Monroe County	10.40	.40	1%+.30		.01
Vanderburgh County	11.65	.40	1%		½ of 1%
Vigo County	11.00	.40	1%+.30		.01
ELEVATOR CONSTRUCTORS:					
Allen & Grant Counties:					
Elevator constructors	9.66	.495	.32	1%+b+c	.02
Helpers	6.76	.495	.32	1%+b+c	.02
Helpers (Prob.)	4.83				
Bartholomew, Benton, Delaware, Marion, Monroe, Tippecanoe, & Vigo Counties:					
Elevator Constructors	10.68	.545	.35	1%+b+c	.02
Helpers	7.48	.545	.35	1%+b+c	.02
Helpers (Prob.)	5.34				

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS: (cont'd)					
Dearborn County:					
Elevator constructors	11.15	.545	.35	1%+b+c	.02
Helpers	7.805	.545	.35	1%+b+c	.02
Helpers (Prob.)	5.575				
Vanderburgh County:					
Elevator Constructors	10.74	.545	.35	1%+b+c	.02
Helpers	7.52	.545	.35	1%+b+c	.02
Helpers (Prob.)	5.37				
GLAZIERS:					
Allen & Grant Counties	9.53	d		.40+c	.04
Bartholomew, Delaware, Marion, Monroe, Tippecanoe, & Vigo Counties	11.59				
Benton County	7.80	.25	.25	.25	
Dearborn County	10.10		.35		.005
Vanderburgh County	9.305	.48	.50	.25	
IRONWORKERS:					
Allen, Delaware (Northeastern 1/3 of Co.), & Grant (excluding s/w portion) Counties	10.75	.75	.95		.01
Bartholomew, Delaware (Southern 2/3 of Co.), Grant (s/w portion) & Monroe Counties	10.15	.65	.90		.05
Marion County	10.50	.75	1.10		.05
Benton, & Tippecanoe Counties	9.99	.75	1.10		.02
Dearborn County:					
Ornamental; Structural	10.545	.65	.70		.03
Reinforcing	10.43	.75	1.45		.02
Vanderburgh County	8.15	.25	.25		
Vigo County	10.15	.75	1.70		.10
LABORERS (Wrecking):					
Marion County:					
Wrecking laborers; Mason tenders	6.20	.35	.35		.07
Jackhammer; drill & compactor operators	6.40	.35	.35		.07
Cutting torch or burner	6.75	.35	.35		.07
LATHERS:					
Allen Co.	9.30		.50		.01
Bartholomew, Marion, Monroe, & Vigo Counties	10.54	.61	.35		.04
Benton & Tippecanoe Counties	8.89	.55	.35		.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS: (Cont'd)					
Dearborn County	$11.145		.25		.025
Delaware and Grant Counties	8.55		.35		.01
Vanderburgh County	9.07				.01
LEADBURNERS	9.25	.35		f	.01
MARBLE SETTERS' HELPERS; TERRAZZO WORKERS' HELPERS; & TILE SETTERS' HELPERS:					
Allen County	6.95				
MARBLE & TILE SETTERS' HELPERS:					
Bartholomew, Dearborn, Delaware, Grant, Marion, Monroe and Tippecanoe Counties	7.60				
Vigo County	7.40	.40	.70		.01
PAINTERS:					
Allen and Grant Counties:					
Brush; Paperhangers; Rollers; & Tapers	8.25	.37	.35		.10
Sandblasters; Spray	9.25	.37	.35		.10
Bartholomew County:					
Brush; Drywall taping and finishing; & Rollers	8.05				
Sandblasting; Spray; Swing stage	9.05				
Structural steel	8.05				
Benton & Tippecanoe Counties:					
Brush	8.45				
Structural steel	8.70				
Sandblasting	9.50				
Spray	11.72				
Dearborn County:					
Brush; Roller; Wallwashing; Drywall taping & finishing; Wallpaper & vinyl hanging; Floor sanding; Seamless flooring & finishing; Sandblasting; Hopper tending; Steamcleaning	8.90				
Spray	9.40				
Delaware County:					
Brush; Taping	8.00		.60		
Sandblasters; Spray	8.75		.60		
Steeplejack; Water towers	9.00		.60		
Marion County:					
Brush; Drywall tapers & finishers; Rollers	9.31	.39	.20		
Sandblasters; Spray	10.31	.39	.20		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Monroe County:					
Brush; Drywall; Paperhanging; Roller; & Vinyl	8.40			.30	
Structural steel.	9.15			.30	
Sandblasting; Spray	9.40			.30	
Vanderburgh County:					
Brush; Roller	8.25	.65	.30		
Sandblasting	9.00	.65	.30		
Spray	9.25	.65	.30		
Vigo County:					
Brush, Drywall finishing; Paperhangers; & Rollers	8.50			.25	
Spray	9.50			.25	
Structural Steel to 30'	8.75			.25	
Structural Steel 30' to 100'	9.50			.25	
Structural Steel over 100'	10.50			.25	
PIPEFITTERS; Steamfitters:					
Dearborn County	10.80	.70	.975		.06
PIPEFITTERS; Plumbers; & Steamfitters:					
Bartholomew (Camp Atterbury), & Marion Counties	11.00	.50	.75	/	.04
PLASTERERS:					
Allen County	9.24	.60			
Bartholomew County	9.10				
Benton (Eastern 2/3 west to & incl. Boswell, Earl Park, & Raub) & Tippecanoe Counties	9.50	.55			
Dearborn County	6.50				
Delaware & Grant Counties	8.40	.65			.01
Marion County	10.50	.80			.01
Vanderburgh County	10.58				
Vigo County	9.00	.50	.50		
PLUMBERS:					
Dearborn County	9.92	.65	.90		.05
PLUMBERS; Steamfitters:					
Allen County	10.05	.35	.65		.07
Bartholomew (Excluding Camp Atterbury) County	11.20	.50	.30		.05
Benton & Tippecanoe Counties	10.30	.40	.75		.10
Delaware County	10.50	.50	.55	g	.15
Grant County	10.90	.50	.55		.05
Monroe County	10.95	.50	.75		.15

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters: (Cont'd)					
Vanderburgh County	$11.33	.50	.80		.06
Vigo County	11.25	.40	.80		.10
ROOFERS:					
Allen County	9.45		.10		
Bartholomew, Marion, Monroe, Counties					
Composition; Waterproofers	10.43	.35	.40		
Slate, Tile, Asbestos, & Precast slab	10.68	.35	.40		
Helpers	8.93	.35	.40		
Benton & Tippecanoe Counties:					
Composition	10.10	.40	.28		
Slate, Tile, Asbestos	10.35	.40	.28		
Dearborn County	11.47		.85		.01
Delaware County:					
Slate, tile and Asbestos; Composition, damp & Waterproofers	8.25	.25	.10		
Coal tar pitch	8.75	.25	.10		
Grant County	6.80		.10		
Vanderburgh County:					
Composition	9.23	.50	.40		
Concrete slab & gypsum plank	9.48	.50	.40		
Slate & Tile	9.48	.50	.40		
Helpers	6.31	.50	.40		
Vigo County:					
Roofers; Kettlemen	9.35	.40	.20		
SHEET METAL WORKERS:					
Allen & Grant Counties	10.64	.50	.50		.06
Bartholomew, Delaware, Marion & Monroe Counties	11.25	.60	.60		.08
Benton & Tippecanoe Counties	10.00	.40 4h	.33		.06
Dearborn County	8.995	.40	.70		.02
Vanderburgh County	10.15	.40	.35		.02
Vigo County	8.90	.31 4h	.45		.02
SPRINKLER FITTERS	11.40	.60	.90		.08
TERRAZZO WORKERS; Tile Setters: Allen County	8.85				
TERRAZZO WORKERS' HELPERS: Bartholomew, Delaware, Grant, Marion, Monroe, Tippecanoe & Vigo Counties	8.95				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Allen County:					
Up to & incl. 1 ton	$ 8.555	i	j		
Sweeper attached & Dist. water wagon	8.855	i	j		
1½ to & incl. 3 tons; forklift	8.655	i	j		
Tandem; Double bottoms; lowboys; Tri-axle; winch; boom	8.755	i	j		
Semi	8.705	i	j		
Euclid; Earthmover	9.005	i	j		
Benton & Tippecanoe Counties:					
Single axles; Straight trucks; Warehousemen	6.75	k	l	m	
Helpers; Greasers; Firemen	6.70	k	l	m	
Tandem axles; Straight trucks & Doglegs	6.85	k	l	m	
Bituminous distributors	6.90	k	l	m	
Semi-trucks & mechanics, Tri-axle	7.05	k	l	m	
Marion County:					
Up to & incl. 3 tons & Helpers	7.865	n	o	p	
Over 3 tons; Semi-trailers; Tandem (double bottom); Winch trucks when used with winch	8.015	n	o	p	
Truck mechanics	7.94	n	o	p	

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. 6% for Health & Welfare includes pension
b. 6 paid holidays: A through F
c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years, & 2% for employee who has worked in business less than 5 years.
d. When an employee has been employed by an employer for 6 continuous months, the employer will contribute $5.00 per week toward his Hospital/Medical premiums if the employer does not have a pre-established Hospital/Medical plan. If an employee has met the 6-month qualification & is off work for any reason for over 30 continuous calendar days, the employer will not make the above $5.00 weekly contribution to the employee until the employee returns to work on a regular basis
e. 6 paid holidays: A through F provided such employees work the last scheduled day prior to & the next scheduled work day after the holiday unless permission for not working on such days is granted by the employer
f. 9 paid holidays: A through F plus Washington's Birthday, Good Friday, & Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, & the regular scheduled work days immediately preceding and following the holiday.
g. 2 paid holidays: C&D
h. 3% of gross earnings to S&SMI
i. $20.00 per week per employee
j. $22.00 per week per employee
k. $17.00 per week per employee
l. $14.00 per week per employee
m. 1 week's paid vacation after 1 year's employment; 2 weeks after 3 years; 3 weeks after 10 years
n. $20.00 per week per employee
o. $22.00 per week per employee
p. Each employee who has been in the employ of the same employer for 1 year & has accumulated 1000 hours of service shall receive 1 week's vacation with pay of 40 hours at straight time; each employee who has been in the employ of the same employer for 10 years or more & has accumulated 1000 hours of service shall receive 3 weeks' vacation with pay of 120 hours at straight time hourly rate.

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LABORERS:
BUILDING CONSTRUCTION

	AREA I	AREA IA	AREA IB	AREA IIA
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$7.70	$7.50	$7.40	$6.65
GROUP II	7.90	7.70	7.60	6.85
GROUP III	8.00	7.80	7.70	6.95
GROUP IV	8.70	8.50	8.40	7.65
GROUP V:				
A.	7.90	7.90	----	----
B.	7.775	7.775	----	----
C.	8.00	8.00	----	----
D.	7.975	7.975	----	----

	AREA IIB	AREA IIIA	AREA IIIB	AREA IIIC
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$6.75	$6.95	$6.90	$7.00
GROUP II	6.95	7.15	7.10	7.20
GROUP III	7.05	7.25	7.20	7.30
GROUP IV	7.75	7.95	7.90	8.00

	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I	.50	.45		.09
ALL OTHER AREAS	.50	.40		.09

AREAS

AREA I: All territories west of Cline Avenue Lake Michigan Shorelines to Illinois State Line & Newton & Jasper Counties; All territories east of Cline Avenue, Lake County; All territory north of U. S. Highway No. 20, Porter County, including all Lake Michigan Shore Front east of Cline Avenue in Lake County

AREA IA: Porter County South of U. S. Highway No. 20, Starke, LaPorte Counties

AREA IB: Elkhart, Kosciusko, LaGrange, Marshall & St. Joseph Counties

AREA IIA: Fayette, Henry, Rush, Wayne, Union, Blackford, Delaware, Grant, Hamilton, Hancock, Jay, Madison & Randolph Counties

AREA IIB: Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, Whitley, Benton, Boone, Carroll, Cass, Clinton, Montgomery, Pulaski, Tippecanoe, White, Fulton, Howard, Miami, & Tipton Counties

AREA IIIA: Marion & Shelby Counties

AREA IIIB: Clay, Fountain, Greene, Hendricks, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, Warren, Bartholomew, Brown, Dearborn, Decatur, Franklin, Jackson, Johnson, Jennings, Lawrence, Martin, Monroe, Morgan, Ohio, Orange, Ripley, Clark, Crawford, Floyd, Harrison, Jefferson, Perry, Scott, Switzerland, & Washington Counties

AREA IIIC: Daviess, DuBois, Gibson, Knox, Pike, Posey, Spencer, Vanderburgh, & Warrick Counties

LABORERS

GROUP I: Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworker helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhousemen; Roofer's helpers; Railroad workers; Masonry wall washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers of all other crafts not listed; Mason tenders for Areas 1, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP II: Waterproofing; Handling of creosote lumber or like treated material (excluding railroad material); Asphalt rakers & lutmen; Kettlemen; Air tool operators, vibrators, chipping hammer operators and all pneumatic tool operators; Earth compactors; Jackmen & sheetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP III: Plasterers tenders; Mason tenders, except for Areas 1, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas 1, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP IV: Dynamite men

GROUP V:
A. Boiler setter laborers (Fire brick tear out with air tools)
B. Boiler setter laborers (Fire brick)
C. Boiler setter laborers (Mortar mixers)
D. Expeditor, bottom man & bell man

POWER EQUIPMENT OPERATORS

Allen, Benton, Delaware, Grant, Marion, & Tippecanoe Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$10.55	.40	.40		.05
GROUP 2	9.70	.40	.40		.05
GROUP 3	8.35	.40	.40		.05
GROUP 4	7.55	.40	.40		.05

CLASSIFICATIONS

GROUP 1: Air Compressor (pressurizing shafts, tunnels and divers), Air Tugger, Auto Patrol, Backfiller, Backhoe, Boom Cat, Boring Machine, Bulldozer, Caisson Drilling Machine, Cherry Picker, Compactor (w/dozer blade) Concrete Plant, Concrete Pump, Crane w/all attachments, Crane-Electric Overhead, Derrick, Ditching Machine (18" and over), Dredge, Elevator (when hoisting material or tool) Forklift (machinery), Formless Paver, Generator (power for welders or compressors), Gradall, Helicopter, Helicopter Winch Operator, Highlift-Front End Loader, Hoist, Locomotive, Mechanic on job site, Mucking Machine, Panel Board, Concrete Plant, Piledriver, Push Cat, Scoop and Tractor, Scraper-rubber-tired, Spreader-tractor mounted, Straddle Carrier-Ross type, Sub-base Finish, Machine (C.M.I. or similar tower crane), Tractor w/backhoe (over ½ yd.) Welder

GROUP 2: A-Frame Truck, Batcher Plant (automatic dry batch), Bending Machine-power driven, Bituminous Mixer, Bituminous Paver, Bituminous Plant Engineer, Boatman, Bullfloat, Compactor or Tamper-self-propelled, Concrete Mixer (21 cu. ft. or over), Concrete spreader-power driven, Dinkey Engine, Ditching Machine (less than 18"), Drilling Machine, Finish Machine and Bullfloat, Finishing Machine, Fireman, Piledriving and Boilers, Forklift-Masonry and Material, Gunnite Machine, Head Greaser, Mechanic in Shop, Mesh Depresser-mesh placer, P.C.C.-Concrete Belt Placer, Roller-Asphalt Stone and Sub-base, Sheepstone Roller self-propelled, Shop Mule, Spreader or Base Paver-self-propelled, Subgrader, Throttle Valve w/air compressor or boiler, Tractor w/backhoe (½ yard and under), Tractor-High lift-Farm-type, Tractor-Industrial type, Tractor w/winch, Well Points, Winch Truck

GROUP 3: Air Compressor (210 cu. ft. and over); Bituminous Distributor, Chair Cart, Concrete Curing Machine, Concrete Saw, Dope pot-power agitated, Flexplane, Form Grader, Hydrohammer, Jacks-Hydraulic-power driven, Minor Equipment Operator, Paving Joint Machine, Post Hole Digger, Roller-earth, Throttle Valve, Track Jack-power driven, Tractor-farm type, Truck Crane Driver

GROUP 4: Air Compressor (less than 210 cu. ft.) Concrete Mixer (under 21 cu. ft.), Conveyor, Generator, Mechanical Heater, Oiler, Power Broom, Pump, Welding Machine, Helpers

POWER EQUIPMENT OPERATORS

Bartholomew, Dearborn, & Vanderburgh Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.58	.35	.35		.05
GROUP B	9.49	.35	.35		.05
GROUP C	8.75	.35	.35		.05

CLASSIFICATIONS

GROUP A: A-Frame winch truck, air compressor over 600 cu. ft., air tugger, auto-grade (CMI), auto patrol backhoe, ballast regulator (RR), batcher plant (electric control concrete), bending machine (pipe), bituminous plant, bituminous mixer travel plant, bituminous power roller, bulldozer, cable way, Chicago boom, clamshell, concrete mixer (21 cu. ft. or over), crane, craneman, crusher plant, derrick boat, dinkey, dope pots (pipeline), dragline, dredge operator, drill operator, elevating grader, concrete paver, elevator, Ford hoe, (or similar type equipment), forklift formless paver, gantry crane, gradeall, grademan, grout pump, Hetherington paver, highlift hoist, hopto. hough loader (or similar type), hydro crane, hydro hammer, locomotive crane, locomotive, mechanic mobile mixer, motor crane, motor crane oiler and one(1) piece of minor equipment, mucking machine, multiple tamping machine (RR), overhead crane, pile driver, pulls, push dozer, push boats, roller (sheepfoot), Ross carrier, scoop shovel, side boom, swing crane, tail boom, tar machine (pipeline), throttle valve, trench machine, welder pump, truck mounted drill 2 to 4 pieces of minor equipment,well point, whirleys

GROUP B: Air compressor (200 cu. ft. per minute capacity or more) brakeman, bull float, concrete mixer (over 10S and under 21S), concrete spreader or puddler, deck engine drill helper, electric vibrator Kompactor (earth or rock), finishing machine, fireman, greaser (on grease facilities servicing heavy equipment), material pump motor boats, motor crane oiler, oiler and one piece of minor equipment, portable loader, post hole digger, power broom, rock roller, roller-wobble wheel (earth and rock), spike machine (RR), seaman tiller, spreader rock, sub-grader, tamping machine, truck mounted drill oiler, welding machine widener (Apsco or similar type)

GROUP C: Air compressor (under 200 cu. ft. per minute), biutminous distributor cement gun, conveyor, desk hand, earth roller form grader, generator, guard rail driver, heater, oiler, paving joint machine, steam Jenny, vibrator, water pump , concrete saw

POWER EQUIPMENT OPERATORS

1 of 2

Monroe, & Vigo Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.55	.40	.50		.08
GROUP II	10.45	.40	.50		.08
GROUP III	10.25	.40	.50		.08
GROUP IV	8.00	.40	.50		.08

CLASSIFICATIONS

GROUP I Master Mechanics

GROUP II Utility Operator

GROUP III Power Cranes, Draglines, Derricks, Electric Overhead Cranes, Shovels, Gradall, Mechanics, Repair and Maintenance of all Equipment, Tractor Highlift, Fork lifts, Tournadozer, Mixer over 1½S Capacity, Tournamixer, Two Drum Machine or Two Cage Hoists, Cableways, Tower Machines, Motor Patrol, Boom Tractor, Boom or Winch Truck, Truck Crane, Tournapull, Tractor operating Scoops, Bulldozer, Push Tractor, Finishing Machine on Asphalt, Large Rollers & Rollers on Asphalt, Gravel, Macadam and Brick Surface, Ross Carrier or similar Machine, Gravel Processing Machine, Asphalt Plant Engineer or Pug Mill, Two Air Compressors, Hetherington Paver Operator, Farm Tractor with half Yard bucket and/or Back Hoe Attachment, Trench Machines cutting over 24", Dredging Equipment, Central Mix Plant Engineer, CMI or similar type Machine, Concrete Spreader, Cherry Picker, Standard or Dinkey Locomotives, Scoopmobiles, Euclid Loader, Soil Cement Machines, Back Filler, Elevating Machine, Power Blade, Asphalt Plant Engineer, Well Drilling Machines, Paint Machine, Pipe Cleaning Machines, Pipe Wrapping Machine, Pipe Bending Machine, Apsco Paver, Boring Machine, Tractor Without Winch, Head Equipment Greasers, Barber Green Loaders, Formless Paver, Well Point System Hydra Ax, Resco Concrete Saw, Marine Scoops, Brush Mulcher, Brush Burner, Mesh Placer, Tree Mower, Helicopter Crew (3), Pile Driver Skid or Crawler, Stump Remover, Root Rake, Tug Boat Operator, Refrigerating Machine Freezing Operator, Chair Cart - Self Propelled, Hydro Seeder, Straw Blower, Concrete Mixers with Skip, all one Drum Hoists with Tower or Boom, Dredge Engineer, Dredge Operator, Rock Spreader, Truck or Skid Mounted Tower Crane, Engine or Rock Crusher Plant, Boiler Operator, Concrete Plant Engineer, Loaders, Hydra Crane Caissons, Shaft or any similar type Drilling Machine, Concrete Curb Machine - Self Propelled, Winch or Hydraulic Boom Truck

POWER EQUIPMENT OPERATORS

2 of 2

GROUP IV Mixers 1½S capacity or less, Trench Machine cutting 24" and under, Farm Tractor with less than half yard bucket and other Attachments except Back Hoe, Truck Crane Oiler, Power Subgrader, Bull Float, Form Grader, Finishing Machine Pavement Breaker, Rock Crushers, One Drum Machine, One Air Compressor, Concrete Pump, Gunite Machine, Air Tuggers, Truck Crane Drivers, House Elevators when used for hoisting Material, Two to Four Generators or Welding Machine, Mechanized Heaters irrespective of Motor Power when used for temporary heat, Small Rollers on Earth, Engine Tenders, Firemen, Wagon Drill, Flexplane, Conveyor, Two to Four Water Pumps, Siphon and Pulsometer, Switchman on Paint Pots, Fireman on Asphalt Plants, Distributor Operator on Trucks, Tampers, Power Broom, Post Hole Digger, Self-propelled Concrete Saw, Striping Machine (Motor Driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Track Jack, Mud Jack, Operator to do Winter Repair Work in Shop between November 1st and March 1st, Concrete Buggies motor driven, Oilers, Barrel Type Mixer, One Welding Machine or One Water Pump, Air Valves or Steam Valves from Plant, Concrete Mixers without Skip, Curing Machine, Concrete & Blacktop Curb Machine, Deck Hands

Cranes with booms from 149 ft. to 199 ft. including jib. receive additional $.75 per hour
Cranes with boom over 199 ft. including job receive additional $1.25 per hour.

Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, & Vigo Counties

LINE CONSTRUCTION

EXCLUSIVE OF CALUMET AREA

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Linemen; Technicians	$ 9.68	.45	1%		.5%
Heavy equipment operator "A"	9.19	.45	1%		.5%
Heavy equipment operator "B"	7.57	.45	1%		.5%
Powder man & equipment mechanic	7.39	.45	1%		.5%
Senior groundman truck driver w/w	6.32	.45	1%		.5%
Groundman truck driver with winch	6.07	.45	1%		.5%
Groundman truck driver w/o winch	5.32	.45	1%		.5%
Senior groundman after 5 years	6.06	.45	1%		.5%
Senior groundman after 12 months	5.89	.45	1%		.5%
Groundman 0-12 months	4.99	.45	1%		.5%

CALUMET AREA

Linemen; Technicians	9.98	.45	1%		.5%
Heavy equipment operator "A"	9.26	.45	1%		.5%
Heavy equipment operator "B"	7.63	.45	1%		.5%
Powder man & equipment mechanic	7.45	.45	1%		.5%
Senior groundman truck driver w/w	6.43	.45	1%		.5%
Groundman truck driver with winch	6.14	.45	1%		.5%
Groundman truck driver w/o winch	5.39	.45	1%		.5%
Senior groundman after 5 years	6.18	.45	1%		.5%
Senior groundman after 12 months	6.01	.45	1%		.5%
Groundman 0-12 months	5.09	.45	1%		.5%

LINE CONSTRUCTION

Vanderburgh County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN; Line truck operators; Hole digger; Stool handling cable splicer	$11.15	.40	1%		
GROUNDMAN	9.79	.40	1%		
TRUCK DRIVER	10.10	.40	1%		

DECISION NO. IN77-2006

TRUCK DRIVERS

Bartholomew, Dearborn, Delaware, Grant, & Monroe Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$8.05	13.50a	14.00a	b	
GROUP 2	8.10	13.50a	14.00a	b	
GROUP 3	8.15	13.50a	14.00a	b	
GROUP 4	8.20	13.50a	14.00a	b	
GROUP 5	8.25	13.50a	14.00a	b	
GROUP 6	8.30	13.50a	14.00a	b	
GROUP 7	8.40	13.50a	14.00a	b	
GROUP 8	8.45	13.50a	14.00a	b	
GROUP 9	8.50	13.50a	14.00a	b	
GROUP 10	8.55	13.50a	14.00a	b	
GROUP 11	8.70	13.50a	14.00a	b	

CLASSIFICATIONS

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:

a. Per Week per employee

b. 1 week paid vacation after 1 year service, 2 weeks after 3 years, and 3 weeks after 10 years.

DECISION NO. IN77-2006

TRUCK DRIVERS: Vanderburgh County	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP 1	$7.345	.325	12.00a		
GROUP 2	7.455	.325	12.00a		
GROUP 3	7.565	.325	12.00a		
GROUP 4	7.635	.325	12.00a		
GROUP 5	7.675	.325	12.00a		
GROUP 6	7.405	.325	12.00a		
GROUP 7	7.515	.325	12.00a		
GROUP 8	7.175	.325	12.00a		
GROUP 9	7.245	.325	12.00a		

CLASSIFICATIONS

GROUP 1
Single axle straigh trucks, batch truck, wet or dry, over 3(3½E) batches
GROUP 2
Tandem trucks or dog-legs, trucks over 15 ton payload, single-axle semi-truck (3 axle unit) Low-boys single axle (3-axle unit) Low-boys single axle (3-axle unit), Winch trucks or A-frames when used to transport material; Batch truck wet or dry, over 3(3½E) batches, farm tractors pulling trailers
GROUP 3
Tandem axle semi-trucks (4-axle unit), drivers on equipment when not self-loaded or pusher loaded such as Koehring or similar dumpsters, track trucks Euclid bottom dump & hug bottom dump, Tournatrailers, Tournarockers or similar equipment 12 cu. yds. & under; Low-Boys, Tandem axle (4 axle unit), drivers on pavement breakers
GROUP 4
Tandem-Tandem Semi-Trucks (5-axle unit Low Boys Tandem (5-axle unit)
GROUP 5
Drivers on equipment when not self-loaded or pusher loaded on such Koehring or similar dumpsters, track trucks Euclid bottom dump & hug bottom dump, Toutnatrailers, Tournarockers or similar equipment over 12. cu. yds. Truck Mechanic Drivers on mixer trucks all types
GROUP 6
Drivers on bituminous distributors two-man
GROUP 7
Drivers on bituminous distributors one-man
GROUP 8
Drivers of pickup trucks when hauling equip. supplies & materials to & from & on the job site.
GROUP 9
Helpers, Greasers, Tire Men & Members tenders batch boards

FOOTNOTES:
a. Per Week Per Employee

DECISION NO. IN77-2006

TRUCK DRIVERS: Vigo County	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP I	$ 7.085	.50	14.00a		
GROUP II	7.585	.50	14.00a		
GROUP III	7.785	.50	14.00a		
GROUP IV	7.935	.50	14.00a		

FOOTNOTE:
a. Per Week Per Employee

CLASSIFICATIONS

GROUP I
Single axle trucks seven (7) cu. yds. or less than ten and one-half (10½) tons, dumpsters, scoopmobiles five (5) cu. yds. and under or less than seven and one-half (7½) tons, mixer trucks three (3) cu. yds. and under, air compressors and welding machines, including those pulled by separate units, batch trucks -- wet or dry -- 2-3½E" batches or less, truck drivers helpers, warehousemen, mechanic's helpers, greasers and firemen, and all pick up trucks, Drivers on dumpsters or similar dumpsters, mounted on a four (4) wheel truck rated two (2) cu. yds. or less, and small pallet type fork lift operator and drivers on pilot vehicles
GROUP II
Drivers on tandem axle trucks eighteen (18) cu. yds. or twenty-four (24) tons gross, six (6) wheel trucks, Koehring or similar dumpsters, track trucks, euclids, hug bottom dumps, tournapulls, tournatrailers, tournarockers, or similar equipment when used for transportation purposes under nine (9) cu. yds. or less than thirteen and one-half (13½) tons, tandems and semi trailer service trucks, mixer trucks over three (3) cu. yds. and including six and one-half (6½) cu. yds., fork lift, four (4) wheel A-Frame trucks when used for transportation purposes, four (4) wheel winch trucks, pavement breakers batch trucks -- wet or dry -- over 2 up to and including 4-"3½E" batches, two (2) men oil distributors
GROUP III
Koehring or similar dumpsters, track trucks, semi trailer water trucks, Euclids, hug bottom dumps, tournapulls, tournatrailers, tournarockers, tractor trailers, tandem, A-Frame winch trucks, hydrolift trucks or similar equipment when used for transportation purposes, mixer trucks over six and one-half (6½) cu. yds. batch trucks -- wet or dry -- over 4-"3½E" batches, single axle low boy trailers, and contractor's mechanics when working on equipment operated by employees within this bargaining unit, six (6) wheel pole trailers and one (1) man oil distributors
GROUP IV
Drivers on heavy equipment over sixteen (16) cu. yds., or twenty-four (24) tons, such as Koehring or similar dumpsters, truck trucks, Euclids, hug bottom dumps, tournapulls, tournarockers, or similar equipment when used for transportation purposes, pole trailers over six (6) wheels, water pulls, low boy trailers tandem axles or more no weight limitation, diesel and/or heavy equipment mechanics when working on equipment operated by employees within this bargaining unit

SUPERSEDEAS DECISION

STATE: Kansas
DECISION NO: KS77-4019
COUNTIES: Geary and Riley
DATE: Date of Publication
Supersedes Decision No. AQ-88, dated March 29, 1974 in 39 FR 11791
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$7.15				
Cement masons	7.85				
Electricians	5.95	.45	1%+.20		.05
Laborers:					
Common	3.00				
Air tool operator	4.35	.35	.25		.05
Mortar mixers	4.35	.35	.25		.05
Painters, brush	5.00				
Plumbers & Pipefitters	6.00				
Drywall - sheetrock	5.00				
Drywall - finishers	4.75				
Roofers	5.50				
Sheet metal workers	4.50				
Truck drivers	3.00				
Power Equipment Operators:					
Front end loader	6.75				
Backhoe	6.75				
Bulldozer	6.75				
Motor graders	6.75				

STATE: Kansas COUNTY: Sedgwick
DECISION NO: KS77-4020 DATE: Date of Publication
Supersedes Decision No. KS76-4097, dated June 11, 1976 in 41 FR 23896
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.60	.58	.325		.02
BOILERMAKERS	9.45	.70	1.00		.02
BRICKLAYERS; STONEMASONS	9.58	.50	.25		.02
CARPENTERS:					
Carpenters	9.15	.30			.05
Millwrights, piledrivermen	9.45	.50			.05
CEMENT MASONS:					
Cement masons	9.35				
Troweling machine operator	9.60				
ELECTRICIANS	10.00	.60	1%		1%
ELEVATOR CONSTRUCTORS	8.74	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
FOOTNOTES: a-Employer contributes 4% of basic hourly rate for over 5 years service, and 2% of basic hourly rate for 6 mos. to 5 years as vacation Pay Credit. b-1st 6 months none; 6 months - 5 years 2%; over 5 years 4% of basic hourly rate; also 6 paid holidays.					
IRONWORKERS	9.88		.25	.53	.02
LABORERS (BUILDING CONSTRUCTION):					
GROUP 1 - Common laborers	6.80	.50	.25		.05
GROUP 2 - Power tool operators, compactors, concrete breakers, chipping tools, drilling tools, concrete saws, mechanically operated georgia buggy, mason tenders, plaster tenders, mortar mixers for plasterers, mason and cement finishers, all stocking scaffold, clean up for masons (building & wrecking), sand and concrete gun nozzleman, powderman	6.95	.50	.25		.05
LABORERS (SITE PREPARATION & GRADING)					
GROUP 1	4.90	.45	.35		.05
GROUP 2	5.05	.45	.35		.05
GROUP 3	5.15	.45	.35		.05
GROUP 4	5.30	.45	.35		.05
GROUP 5	5.40	.45	.35		.05

DECISION NO. KS77-4020

CLASSIFICATION DEFINITIONS

LABORERS:
GROUP 1 - Board mat weavers & cable tiers, georgia buggy (manually operated), mixerman-no skip, lift, nailers, salamander tenders, track men, tractor swamper, truck dumper, wire mesh setter, water pump up to 4 inches, & all other general laborer including flagmen
GROUP 2 - Air tool operators, cement handlers (bulk) chain saw, georgia buggy (mechanically operated), grade man, hot mastic kettlemen, crusher feeder, joint man, jute man, mason tender, material batch hopper & scale man, mixer man, pier hole man working 10 ft. deep, pipelayer-drainage (concrete and/or corrugated metal), signal man (crane), truck dumper-dry batch, vibrator operator, wagon and churn drill operator
GROUP 3 - Asphalt raker, barco tamper, concrete saw, creosote material handling & applying, nozzle burner (cutting torch and burning bar)
GROUP 4 - Conduit pipe, tile & duct line setter, form setter & liner on concrete paving, powderman, sandblasting & gunnite nozzleman, sanitary sewer pipe layer, steel plate structure erectors, water and gas distribution lines
GROUP 5 - Leadmen or pusher

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$8.40		.15		.01
LINE CONSTRUCTION:					
Linemen	9.25	.45	1%		½%
Cable splicers	9.71	.45	1%		½%
Groundman, over 1 year	5.75	.45	1%		½%
Groundman, 1st year	4.36	.45	1%		½%
Powderman	7.67	.45	1%		½%
Line truck & equipment operators:					
1st year	5.89	.45	1%		½%
2nd year	7.05	.45	1%		½%
Over 2 years experience	7.67	.45	1%		½%
PAINTERS:					
GROUP 1 - Brush, sheetrock taping and finishing	8.87	.10	.30		.01
GROUP 2 - Stage chair and window jack work to and including five stories high	9.22	.10	.30		.01
GROUP 3 - Stage chair and window jack work over five stories high; elevated tanks, towers, & stacks over 75 ft. high; sandblasting & water blasting work from picks; stage chairs or platforms over 24 ft. in height	9.47	.10	.30		.01
GROUP 4 - Structural steel not done from scaffolding	9.62	.10	.30		.01
PLASTERERS	8.50				
PIPEFITTERS, PLUMBERS	10.78	.64	.80		.04

DECISION NO. KS77-4020

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):					
GROUP 1	9.60	.50	1.00	.50	.10
GROUP 2	9.20	.50	1.00	.50	.10
GROUP 3:					
(a)	8.15	.50	1.00	.50	.10
(b)	8.40	.50	1.00	.50	.10
GROUP 4:					
(a)	7.85	.50	1.00	.50	.10
(b)	8.10	.50	1.00	.50	.10
GROUP 5	10.10	.50	1.00	.50	.10
GROUP 6	9.85	.50	1.00	.50	.10
GROUP 7	10.20	.50	1.00	.50	.10
GROUP 8	11.60	.50	1.00	.50	.10
GROUP 9	10.60	.50	1.00	.50	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:
GROUP 1 - boilers (2), boom cat, boring machine, ditching machine, concrete ready-mix plant, crane, truck crane, clamshell, dragline, dozer, scraper, all types, patrol, firemen (when operating steam or air valve), gradall, hi-loaders (over 1 yd), hoist, two drums, locomotive, mechanic or welder, mixermobile, paver, or any other machine with power swing, piledriver operator, power shovel, pump, concrete or other material
GROUP 2 - A-frame truck, barber-greene loader or similar type, bob cat hi loaders (1 yd and under), boiler (1), ditching machine-small, elevator operator, firemen, fork lift, greaser, equipment, hoist, one active drum, hydra hammer, jeep ditcher, mixer, other than paver, power broom, pump, 4" or larger, small machine engineer, welding machine (1)
GROUP 3 - (a) farm tractor (without attachments), (b)Farm tractor (with attachments)
GROUP 4 - (a)Oiler, (b)motor crane oiler
GROUP 5 - Tower cranes and derricks, frankie-type pile driving machines
GROUP 6 - Cranes and shovels 100 ft. of boom or over (including jib) or 2 yds. capacity or over or 30 tons or over (3) drum hoist
GROUP 7 - Cranes and shovels booms 200 ft. and over; (4) drum hoist
GROUP 8 - Master mechanic
GROUP 9 - Cranes with lifting ring

DECISION NO. KS77-4020

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (SITE PREPARATION & GRADING):					
GROUP 1	7.85	.50	1.00	.50	.10
GROUP 2	7.60	.50	1.00	.50	.10
GROUP 3	7.35	.50	1.00	.50	.10
GROUP 4	7.00	.50	1.00	.50	.10
GROUP 5	7.10	.50	1.00	.50	.10
GROUP 6	8.10	.50	1.00	.50	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:
Group 1 - Asphalt paver & spreader, back hoe, boring machine, blades, all types, clamshell, concrete mixer paver operator, concrete central plant operator, (automatic), crane, truck crane, pitman crane hydro crane or any machine with power swing, derrick or derrick trucks, dragline operator, dredge operator, dozer, ditching machine, euclid loader, hoist-2active drums, loader, all types, mechanic or welder, mixer-mobile, multi-unit scraper, piledriver operator, power shovel operator, quad track, scoop operator, all types, side boom cat-cherry picker, skimmer scoop operator, pushcat operator
Group 2 - Asphalt plant operator, elevating grader operator
Group 3 - A-frame truck, asphalt roller operator, asphalt plant boiler fireman, backfiller operator, barber-greene loader, boiler-other than asphalt, bull float operator , churn drill operator, compressor operator (1), concrete central plant operator, concrete mixer operator skip, concrete pump operator, crusher operator, distributor operator, finish machine operator-concrete, fireman other than asphalt, flex plane operator, fork lift, form grader operator, greaser, hoist 1 drum, jeep ditching machine, pavement breaker, self-propelled (of the hydra hammer or similar type), pump operator, 4" or over, two, pump operator other than dredge, screening & wash plant operator, small machine operator spreader box operator-self-propelled tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt, siphon & jets, subgrading machine operator, tank or car heater operator, combination booster & boiler, towboat operator, vibrating machine operator, not hand
Group 4 - Concrete gang saw, self-propelled (con-cut), conveyor operator harrow disc seeder, oiler, tractor operator, 50 h.p. or less without attachments
Group 5 - Oiler, motor crane
Group 6 - Master mechanic

DECISION NO. ES77-4020

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers, Kettlemen	8.30	.28	.20		.02
Pitch	9.05	.28	.30		.02
Helpers	3.50	.28	.20		.02
SHEET METAL WORKERS	10.635	.70	.44		.12
SPRINKLER FITTERS	11.23	.60	.90		.08
TRUCK DRIVERS (BUILDING CONSTRUCTION):					
GROUP 1 - Pickups, station wagons, flat beds-12,000# & under GVW lincense capacity	7.30	.45	.35		
GROUP 2 - Flat beds-16,000# GVW lincense capacity	7.375	.45	.35		
GROUP 3 - Flat beds-20,000# over GVW lincense capacity, dump, batch & water trucks, single axle	7.45	.45	.35		
GROUP 4 - Lowboys, semi-trailers dumpsters, a-frame tandems winch truck when used as such & transit mix	7.05	.45	.35		
TRUCK DRIVERS PREPARATION & GRADING):					
GROUP 1	6.40	.50	.35		
GROUP 2	6.50	.50	.35		
GROUP 3	6.65	.50	.35		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:
Group 1 - Pickups, panel trucks, station wagons, flat beds, dump and batch trucks (single axle)
Group 2 - Tandem trucks, warehousemem or partsmen, mechanic helpers and servicemen
Group 3 - Lowboys, semi-trailers, all transit mixer trucks (single or tandem axle), a-frame and winch trucks when used as such, euclid, end and bottom dump, tournarockers, athey, dumptors and similar off-road equipment and mechanics on such equipment

WELDERS: Receive rates prescribed for craft performing operation to which welding is incidental.

SUPERSEDEAS DECISION

STATE: Nebraska COUNTY: Lancaster
DECISION NUMBER: NE77-4017 DATE: Date of Publication
Supersedes Decision No. : NE76-4167 dated October 8, 1976, in FR 44636
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.87	.40	.51	4.5%	.015
BOILERMAKERS	9.45	.70	1.00		.02
BRICKLAYERS, Stonemasons	8.875	.45	.30		
CARPENTERS:					
Carpenters	8.375	.45	.30		
Piledrivermen	8.575	.45	.30		
CEMENT MASONS:					
Cement Masons	8.30	.45	.30		
Swing Stage	8.55	.45	.30		
ELECTRICIANS:					
Electricians - Cable Splicers' Zone Definition					
Electricians-Cable Splicers from the main Post Office in Lincoln, Nebraska:					
Zone A 0 - 15 Miles	10.81	.42	1%+.30		.04
Zone B 15 - 30 Miles	11.11	.42	1%+.30		.04
Zone C 30 - 75 Miles	11.41	.42	1%+.30		.04
Zone D 75 Miles & Over	11.81	.42	1%+.30		.04
Cable Splicers					
Zone A 0 - 15 Miles	11.06	.42	1%+.30		.04
Zone B 15 - 30 Miles	11.36	.42	1%+.30		.04
Zone C 30 - 75 Miles	11.66	.42	1%+.30		.04
Zone D 75 Miles & Over	12.06	.42	1%+.30		.04
ELEVATOR CONSTRUCTORS	10.99	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70% JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50% JR				
GLAZIERS	8.45	.40	.35		.01
IRONWORKERS	8.88	.50	.55	1.00	
LABORERS:					
Common Laborers	6.465	.45	.30		
Mechine and Air Tool Operators; Mixer Tenders	6.615	.45	.30		
Plasterers Tenders	6.69	.45	.30		
LATHERS	8.35	.50	.40	1.00	.01
MARBLE MASONS	8.10				

DECISION NO. NE77-4017 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush	$9.20		.35		.02
Spray, Steel, Swing Stage	9.75		.35		.02
Paperhangers, Taper	9.70		.35		.02
PLASTERERS	8.255	.45			
PLUMBERS: Pipefitters	11.06	.58	.60		.10
ROOFERS:					
Composition	7.45		.10		
Slate and Tile	7.85		.10		
SHEET METAL WORKERS	10.32	.40	.20	.50	.03
SOFT FLOOR LAYERS	8.95			C	.05
SPRINKLER FITTERS	11.40	.60	.90		.08
TERRAZZO WORKERS & TILE SETTERS	8.10		.25		
TRUCK DRIVERS:					
Single Axle	5.825	.20	.25		
Tandem Axle	5.95	.20	.25		
Trailers and Lowboys	6.075	.20	.25		
Lisher Carriers	6.25	.20	.25		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Employer contributes 2% of the basic hourly rate for 6 months to 5 years' service and 4% of the basic hourly rate for over 5 years service as Vacation Pay Credit.

b. The following paid holidays: A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

DECISION NO. NETT-4017

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINE CONSTRUCTION:					
Linemen	$9.51	.45	1%		1/2%
Cable Splicers	9.91	.45	1%		1/2%
Truck Driver	6.87	.45	1%		1/2%
Equipment Operator	8.94	.45	1%		1/2%
GROUNDMEN:					
(Inexperienced) 1st 6 months	3.17	.45	1%		1/2%
(Inexperienced) 2nd 6 months	4.67	.45	1%		1/2%
Thereafter	6.20	.45	1%		1/2%
POWER EQUIPMENT OPERATORS:					
Group 1	6.875	.45	.30		
Group 2	7.00	.45	.30		
Group 3	7.75	.45	.30		
Group 4	7.955	.45	.30		
Group 5	7.35	.45	.30		
Group 6	8.275	.45	.30		
Group 7	8.20	.45	.30		
Group 8	8.85	.45	.30		
Group 9	8.35	.45	.30		
Group 10	8.60	.45	.30		

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATOR'S CLASSIFICATION DEFINITION

GROUP 1: Firemen Oilers; Greasers; Mechanic's Helpers; Industrial type tractor without attachments
GROUP 2: Pumps - 4 inches and over
GROUP 3: Industrial type tractor with attachments
GROUP 4: Forklift or similar type equipment
GROUP 5: Compressors - 300 cu. ft. or over, or a series of compressors equalling 300 c . ft. or over
GROUP 6: Economa ile
GROUP 7: Single drum trucks or boom hoists; winch trucks; concrete pumps
GROUP 8: One drum hoists; air tugger; mixer with capacity or 1 yard or more; Blade Graders; Bulldozers; front end loaders; hydraulic backhoe on industrial type tractor
GROUP 9: Rubber tired earth moving equipment; hydrocrane
GROUP 10: Two drum hoists; Mechanics; Cranes; Piledrivers; Shovels; Draglines; Clamshells; Orange Peel; Backhoe; All shovel type equipment; All derricks and cranes

SITE PREPARATION, EXCAVATING AND INCIDENTAL PAVING	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 Compector, 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				

DECISION NUMBER: KE77-4031

	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 Leadsman	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 Fl. (base or stabilization)	5.00				
Stationary Fl. (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				

STATE: NEW YORK

COUNTIES: BRONX, KINGS, NEW YORK, QUEENS AND RICHMOND

DECISION NO. NYT7-3022

DATE: DATE OF PUBLICATION

Supersedes Decision No. NY76-3257 dated October 8, 1976 in 41 FR 44649

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to an including 4 stories.

RESIDENTIAL CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers	$10.45	1.43	.9%	1.25	
Boilermakers	10.57	5%	15%	7%	.02
Bricklayers	10.69	1.13	3.38		.01
Carpenters, Soft Floor Layers, Millwrights and Piledrivers	10.92	1.85	1.73	.65	.04
Cement Masons	9.50	1.36	1.13	1.75	.01
Electricians and Linemen	12.25	7%	1%+a	5.7%+b	3%
Elevator Constructors	10.12	.495	.32+j	c+d	.02
Elevator Constructors' helpers	7.59	.495	.32+j	c+d	.02
Elevator Constructors' helpers probationary	5.06				
Elevator Constructors' Modernization	9.35	.495	.32+j	c+d	.02
Elevator Constructor' Modernization helpers	7.01	.495	.32+j	c+d	.02
Elevator Constructors' Repair	8.50	.495	.32+j	c+e	.02
Elevator Constructors' Repair	6.38	.495	.32+j	c+e	.02
Glaziers	10.30	.66	1.66	.47	.01
Ironworkers:					
Structural	11.65	1.20	2.70	1.50+l	.06
Ornamental Finisher	10.33	1.06	2.44	.78	.04
Reinforcing	10.10	.785	1.765	.75+n	.01
Laborers:					
Asphalt Rakers	9.49	1.10	1.00	m	
Asphalt Tampers	9.27	1.10	1.00	m	
Asphalt Laborers	9.25	1.10	1.00	m	
Cement Concrete Workers	9.15	.8025	1.3525	q	
Laborer	8.15	1.30	1.41		
Mason Tenders	8.30	.687	1.295		
Plasterer Tenders (Kings)	8.20	2.45		.80	
Plasterer Helpers (Queens)	9.45	1.40		1.00	
Plasterer Helpers (NY-Bronx-Richmond)	8.25	.90	1.00	.35	.01
Lathers, Metallic	10.41	.945	1.985	.75+n	.03
Lead Burners	10.75	.40	.25	s	.01
Marble Setters:					
Carvers	10.15	1.13	1.19	f	
Cutters and Setters	10.00	1.13	1.19	f	
Sawyers, Rubbers, and Polishers	7.57	1.13	1.19	f	
Crane operators and Derrickmen	8.28	1.13	1.19	f	

DECISION NO. NYT7-3022

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Brush	$8.85	8%	5%+h	3%	
Spray, Spray Gun, and Scaffold Work	10.74	8%	5%+h	3%	
Plasterers:					
Kings	9.90	1.10		1.40	.01
Queens	8.70	1.00	.20	1.40	.01
Bronx-NY-Richmond	9.30	1.10	1.19	.90	.01
Plumbers:					
Manhattan and Bronx	9.25	1.07	1.86	.72	.06
Kings-Queens	10.10	1.90	1.79	1.19	.22
Richmond	10.40	.85+p	1.48	1.05	.30
Roofers:					
Composition, Damp & Waterproofer	9.15	1.79	2.45	.65	
Sheet Metal Workers	11.87	1.82	1.15	.41	.02
Sprinkler Fitters	10.52	2.65	1.12	.86	.07
Steamfitters	10.52	2.65	1.12	.86	.07
Stonemasons	10.25	.50	1.00		
Terrazzo Workers	10.33	1.21	1.50		
Terrazzo Workers' Helpers	9.14	1.21	1.50		
Tile Setters	8.50	.80	2.05		
Tile Setters' Helpers	7.90	.50	1.27		
Truck Drivers:					
Ready-mix concrete, sand, gravel and asphalt	8.87	.9675	1.8525	k+l	
Euclids and Turnapull operator	8.825	.9675	1.8525	k+l	
Welders-receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. NYY7-3022

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Columbus Day; H-Day after Thanksgiving

FOOTNOTES:

a. Employer contributes $7.00 per day to an Annuity and Security Benefit Fund.

b. Paid Holidays: A through F.

c. Paid Holidays: A through G; Lincoln's Birthday, Washington's Birthday; Election Day; Armistice Day.

d. Employees with 6 months or more but less than 5 years service receive 2 weeks vacation, 5 or more years of service receive 4 weeks vacation.

e. Employees with 6 months or more but less than 5 years service receive 2 weeks vacation, 5 or more years but less than 15 years receive 3 weeks vacation, 15 or more years of service receive 4 weeks vacation.

f. Paid Holidays: ½ day's pay for Labor Day.

g. Paid Holidays: A through F; Washington's Birthday, Christmas Eve, Good Friday, providing the employee has worked 30 full days during the 90 calendar days prior to the holiday, and the regular scheduled worked days immediately preceeding and following the holiday.

h. Employer contributes $4.50 per day to an Annuity Fund.

i. Paid Holidays: New Year's Eve and Christmas Eve, providing the employee works a full half day preceeding the holiday.

j. Employer contributes $7.00 per day to an Annuity Fund.

k. Paid Holidays: A through G; Lincoln's Birthday, Washington's Birthday, Election Day, Veteran's Day, providing the employee works 2 days in the calendar week in which the holiday falls and each remaining work day during such calendar week.

l. For each 15 days within the contract year an employee will receive 1 days vacation with pay, with a maximum vacation of 3 weeks per year.

m. Paid Holidays: B,C,D,E,G,Election Day, providing the employee works at least 1 day in the week in which the holiday occurs.

n. Work on Christmas Eve and New Year's Eve will terminate at noon, but the employee will receive a full day's pay.

p. Employer contributes $6.01 per day to an additional Security Benefit Fund.

q. If men work the last regular work day before Christmas Day, or the last regular work day before New Year's Day, the work day will end at Noon but men will be paid for a full 7 hour day; however, if men are required to work after 12 Noon they will be paid additional time and one-half for the hours worked.

DECISION NO. NYY7-3022

NY-1-PEO-1-E

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Double drum	$11.66	.93	1.95	.70+a	.02	
Stone derrick, cranes, cherry picker	11.44	.93	1.95	.70+a	.02	
Hoist, fork lifts, house cars, plaster (platform machine), plaster bucket, plaster pumps, compressors-welding machines (cutting concrete-tank work) paint spraying, sand blasting, and all equipment used for hoisting material	11.01	.93	1.95	.70+a	.02	
Cranes: All types - crawler or truck						
100' to 149' boom	11.94	.93	1.95	.70+a	.02	
150' to 249' boom	12.19	.93	1.95	.70+a	.02	
250' to 349' boom	12.44	.93	1.95	.70+a	.02	
350' to 450' boom	12.99	.93	1.95	.70+a	.02	
Steel Erection:						
Three drum derricks	12.25	.93	1.95	.70+a	.02	
Cranes, 2 drum derricks, cherry pickers	11.74	.93	1.95	.70+a	.02	
Compressors, welding machines	10.51	.93	1.95	.70+a	.02	

FOOTNOTES:

a. Paid Holidays: New Year's Day; Lincoln's Birthday; Washington's Birthday; Decoration Day; Independence Day; Labor Day; Columbus Day; Election Day; Armistice Day; Thanksgiving Day; and Christmas Day providing the employee is employed during the payroll week in which the holiday falls. Good Friday for Iron League only.

SUPERSEDEAS DECISION

STATE: North Carolina COUNTIES: *See below
DECISION NUMBER: NC77-1813 DATE: Date of Publication
Supersedes Decision No.: AR-4031 dated September 6, 1974 in 39 FR-32441
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

*Counties: Brunswick, New Hanover, & Pender

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanic	4.26				
Bricklayers	5.00				
Carpenters	4.50				
Cement masons	4.73				
Electricians	4.60				
Ironworkers, reinforcing	3.65				
Laborers	2.56				
Painters, brush	4.00				
Plumbers & pipefitters	4.63				
Roofers	3.35				
Sheet metal workers	3.59				
Soft floor layers	4.09				
Tile setters	5.00				
Welders - rate for craft.					
POWER EQUIPMENT OPERATORS					
Asphalt paver	3.56				
Backhoe	4.60				
Bulldozer	3.73				
Grader	3.30				
Loader	4.07				
Roller	3.50				
Scraper	4.00				
Tractor	3.42				

SUPERSEDEAS DECISION

STATE: North Carolina COUNTY: Burke
DECISION NUMBER: NC77-1814 DATE: Date of Publication
Supersedes Decision No.: AQ-4105 dated April 26, 1974 in 39 FR-14842
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanic	4.91				
Asbestos workers	4.87				
Bricklayers	5.12				
Carpenters	4.06				
Cement masons	4.00				
Electricians	4.14				
Glaziers	3.64				
Ironworkers, Structural & Ornamental	5.00				
Laborers:					
Laborers	2.77				
Mason tenders	3.25				
Lathers	4.44				
Painters, brush	3.50				
Plasterers	5.30				
Plumbers & pipefitters	4.56				
Roofers	3.25				
Sheet metal workers	4.15				
Soft floor layers	4.25				
Sprinkler fitters	6.50				
Terrazzo workers	5.25				
Welders - rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	3.70				
Bulldozer	3.85				
Crane, derrick, dragline	3.99				
Loader	3.63				
Motor grader	3.10				

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Lancaster
DECISION NO.: PA77-3026 DATE: Date of Publication
Supersedes Decision No.: PA76-3186, dated June 18, 1976, in 41 FR 24866.
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.11	.52	.70		.01
Boilermakers	12.05	.75	1.00		.02
Bricklayers	9.50	.35	.45		
Carpenters	9.50	.35	.40		.03
Cement Masons	9.24	.35	.25		.01
Electricians:					
W. Calico, E. Calico, Brecknock E. Carl, & Caernarvon Twps.	10.49	.73	1%		.03
Remainder of County	9.50	.45	1%		1/8 of 1%
Elevator con-tructors	10.20	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70% of JR	.545	.35	4%+a+b	.02
Elevator constructors' helper (prob)	50% of JR				
Glaziers	8.89	.40	.30		.01
Ironworkers	10.63	.84	1.21		.03
Laborers:					
General Laborers	6.45	.40	.40		
Operators of Jackhammer	6.65	.40	.40		
Wagon drill	6.75	.40	.40		
Handling of all materials	6.60	.40	.40		
Laborers assisting tile	6.50	.40	.40		
Handling & using dynamite	6.78	.40	.40		
Caisson Work (Top Men)	6.70	.40	.40		
Caisson Work (Bottom Men)	6.90	.40	.40		
Mixer Man	6.85	.40	.40		
Lathers	8.71	.25	.25		.01
Lead burners	10.75	.40	.25	c	.01
Line Construction:					
Linemen	10.88	.35	1%		3/4 of1%
Cable splicers.	10.88	.35	1%		3/4 of1%
Groundman	6.51	.35	1%		3/4 of1%
Winch truck operators	7.60	.35	1%		3/4 of1%
Marble setters	8.20	.25	.45		
Millwrights	10.61	.35	.40		.03

DECISION # PA77-3026 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Elizabeth Dowetal Township					
Brush	$ 8.23	.26	.24		
Steel	8.68	.26	.24		
Spray	8.98	.26	.24		
Remainder of County					
Brush	8.40	.60	.45		
Steel	9.45	.60	.45		
Spray	9.45	.60	.45		
Roller	8.40	.60	.45		
Piledrivermen	10.42	1.88	1.30	e	.12
Plasterers	8.60	.35	.25		.01
Plumbers	10.45	.35	.65		.12
Roofers:					
Comp., damp & waterproofing	10.60	.45	.25	d	
Slat, tile & Asbestos	11.15	.45	.25	d	
Roofers, precast slab	11.40	.45	.25	d	
Sheet metal workers	9.76	1.17	1.03		.05
Sprinkler fitters	11.61	.60	.90		.08
Soft floor layers	8.63	.35	.40		.03
Steamfitters	10.45	.35	.65		.12
Stonemasons	9.50	.35	.45		
Terrazzo workers	8.20	.25	.45		
Tile setters	8.20	.25	.45		
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
b. Six (6) paid holidays: A through F
c. Nine paid holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holidays.
d. Paid Holidays: C
e. Paid Holiday: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

PRECISION # PA77-3026 P. 3

POWER EQUIPMENT OPERATORS

C

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
GROUP 1	$11.60	5.5%	9.5%	a	1.2%
GROUP 2	11.31	5.5%	9.5%	a	1.2%
GROUP 3	10.44	5.5%	9.5%	a	1.2%
GROUP 4	9.67	5.5%	9.5%	a	1.2%
GROUP 5	9.20	5.5%	9.5%	a	1.2%
GROUP 6	8.29	5.5%	9.5%	a	1.2%
GROUP 7	11.85	5.5%	9.5%	a	1.2%
GROUP 7-A	12.10	5.5%	9.5%	a	1.2%
GROUP 7-B	12.34	5.5%	9.5%	a	1.2%

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21S and over all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lift, 20 ft lift and over machine to the above

CLASS 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to the above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core driller helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 Ft and over

GROUP 7A: 150 ft. and over

GROUP 7B: 200 ft. and over

FOOTNOTE:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

[FR Doc.77-3223 Filed 2-3-77;8:45 am]

INDEX TO GENERAL WAGE DETERMINATION DECISIONS AND MODIFICATIONS AS OF JANUARY 7, 1977

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 28th day of January 1977.

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
Mod. #5 - 42 FR 987 - 1/4/77
(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
Mod. #1 - 42 FR 987 - 1/4/77
(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
Mod. #6 - 42 FR 987 - 1/4/77
(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
Mod. #1 - 41 FR 55260 - 12/17/76
(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 #AK77-5002 (B,H,Hw,D,R)
42 FR 992 - 1/4/77

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 Statewide
(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
LONOKE 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
ELDORADO COUNTY
(B,D,H,Hw,R) - See Alameda County
FRESNO COUNTY
(B,D,H,Hw,R) - See Alameda County
GLENN COUNTY
(B,H,Hw,D) - See Alameda County
HUMBOLDT COUNTY
(B,D,H,Hw,R) - See Alameda County
IMPERIAL COUNTY
Decision #CA76-5120 (B,D,H,Hw)
41 FR 56556 - 12/28/76
Decision #CA76-5121 (R)
41 FR 56566 - 12/28/76
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 #CA76-5116 (B,H,Hw,D)
41 FR 54115 - 12/10/76

CALIFORNIA (Cont'd.)

SAN DIEGO (Cont'd.)
Decision #CA76-5117 (R)
41 FR 54122 - 12/10/76
SAN FRANCISCO COUNTY
(B,D,H,Hw,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 #CO76-5067 (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 #CO76-5104 (B,H)
41 FR 52209 - 11/26/76
Decision #CO75-5061 (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 #CO76-5107 (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 #CO76-5105 (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 #CO76-5106 (B,H)
41 FR 52225 - 11/26/76
Mod. #1 - 41 FR 56549 - 12/28/76
(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 #CT76-2172 (B,H,Hw,R)
41 FR 56574 - 12/28/76
Decision #CT76-2173 (B,H,Hw)
41 FR 56581 - 12/28/76
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
HARTFORD COUNTY
Decision #CT75-2067 (R)
40 FR 18304 - 4/25/75
(B,H,Hw,R) - See Fairfield County
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 #CT77-5001 (D)
42 FR 999 - 1/4/77
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 12856 - 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 38877 - 10/25/74
Mod. #1 - 39 FR 40404 - 11/15/74
Decision #FL76-1141 (Hw)
41 FR 56589 - 12/28/76
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
Mod. #1 - 41 FR 54101 - 12/10/76
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
Mod. #1 - 41 FR 55260 - 12/17/76
(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 - 9/27/74
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 #AD-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

BALDWIN COUNTY
(Hw) - See Statewide
BANKS COUNTY
(Hw) - See Statewide
BARROW COUNTY
Decision #AD-4100 (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 #GA77-5005 (D)
42 FR 1015 - 1/4/77
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
Mod. #2 - 41 FR 54101 - 12/10/76
Mod. #3 - 41 FR 55260 - 12/17/76
(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 30600 - 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
WHITFIELD 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
Mod. #3 - 41 FR 54102 - 12/10/76
Mod. #4 - 41 FR 55260 - 12/17/76

IDAHO

STATEWIDE
Decision #ID76-5112 (B,H,Hw)
41 FR 52236 - 11/26/76
Mod. #1 - 41 FR 54102 - 12/10/76
Mod. #2 - 41 FR 55260 - 12/17/76
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 Statewide
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 #IL76-2149 (H,Hw)
41 54120 - 12/10/76
ALEXANDER COUNTY
Decision #IL76-2132 (B)
41 FR 47729 - 10/29/76
Mod. #1 - 41 FR 55262 - 12/17/76
Decision #IL76-2154 (H,Hw)
41 FR 53256 - 12/3/76
Mod. #1 - 41 FR 55263 - 12/17/76
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 - 10/22/76
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
Mod. #1 - 42 FR 1679 - 1/7/77
Decision #IL76-2145 (H,Hw)
41 FR 53251 - 12/3/76
Mod. #1 - 42 FR 1679 - 1/7/77
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
Mod. #1 - 41 FR 55263 - 12/17/76
(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
Mod. #1 - 42 FR 987 - 1/4/77
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,R,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 - 4/16/76
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
Mod. #2 - 41 FR 54104 - 12/10/76
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
Mod. #5 - 41 FR 54103 - 12/10/76
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
Mod. #2 - 41 FR 54103 - 12/10/76
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
Mod. #4 - 41 FR 56549 - 12/28/76
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
Mod. #5 - 41 FR 56549 - 12/28/76
(H,Hw) - See Butler Co. (Excl Mason City)
CHEROKEE COUNTY
None

IOWA (Cont'd)

CHICKASAW COUNTY
None
CLARKE COUNTY
(H,Hw) - See Adair County
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
Mod. #4 - 41 FR 56550 - 12/28/76
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 (D)
41 FR 45811 - 10/15/76
Mod. #1 - 41 FR 56550 - 12/28/76
(Chann. Stab.) - See Fremont County
(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 49985 - 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 COUNTY
(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-88 (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 #M076-4177 (B,H,Hw)
41 FR 50139 - 11/12/76
Mod. #1 - 41 FR 54105 - 12/10/76
Decision #M076-4103 (R)
41 FR 27602 - 7/2/76
Mod. #1 - 41 FR 34482 - 8/13/76
Mod. #2 - 41 FR 54104 - 12/10/76
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 #KY76-1128 (H,Hw)
41 FR 50144 - 11/12/76
Mod. #1 - 41 FR 54106 - 12/10/76
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 12853 - 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 #AO-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
Mod. #2 - 42 FR 508 - 1/4/77
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
Mod. #4 - 42 FR 968 - 1/4/77
(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
(D) - See Ballard County
(B,H,Hw,R) - See Boone 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 #AO-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
Mod. #5 - 42 FR 988 - 1/4/77
(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
Mod. #1 - 42 FR 988 - 1/4/77
(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
Mod. #1 - 41 FR 55263 - 12/17/76
Mod. #2 - 41 FR 56550 - 12/28/76
(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 #KY77-1002 (R)
42 FR 1684 - 1/7/77
(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 - 5/21/76
Mod. #1 - 41 FR 29612 - 7/16/76
Mod. #2 - 41 FR 45786 - 10/15/76
Mod. #3 - 41 FR 51240 - 11/19/76
Mod. #4 - 41 FR 56550 - 12/28/76
(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
NICOLAS COUNTY
(H,Hw) - See Anderson County
(R) - See Carter 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,H,Hw,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
Mod. #3 - 41 FR 55263 - 12/17/76
(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
Mod. #1 - 41 FR 55264 - 12/17/76
Mod. #2 - 42 FR 1679 - 1/7/77
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
AROOSTOOK COUNTY
Decision #ME76-2156 (Hw)
41 FR 52171 - 11/26/76
CUMBERLAND COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
(Hw) - See Aroostook 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 Aroostook County
PISCATAQUIS COUNTY
(Hw) - See Androscoggin County
SAGADAHOC COUNTY
(D) - See Cumberland County
(Hw) - See Aroostook 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 #CT77-5001 (D)
42 FR 999 - 1/4/77
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
Mod. #1 - 41 FR 55264 - 12/17/76
Mod. #2 - 42 FR 988 - 1/4/77
(D) - See Anne Arundel County
BALTIMORE COUNTY
(D) - See Anne Arundel 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
(Hw) - 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 Anne 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 Anne Arundel County
(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
Mod. #2 - 41 FR 54106 - 12/10/76
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BERKSHIRE COUNTY
Decision #MA76-2096 (B,H,Hw)
41 FR 34505 - 8/13/76
Mod. #1 - 41 FR 45788 - 10/15/76
Mod. #2 - 41 FR 54106 - 12/10/76
BRISTOL COUNTY
Decision #MA76-2097 (B,H,Hw,R & Marine)
41 FR 34509 - 8/13/76
Mod. #1 - 41 FR 45789 - 10/15/76
Mod. #2 - 41 FR 54106 - 12/10/76
(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
Mod. #3 - 41 FR 55266 - 12/17/76
(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
Mod. #2 - 41 FR 55266 - 12/17/76
HAMPDEN COUNTY
Decision #MA76-2100 (B,H,Hw)
41 FR 34522 - 8/13/76
Mod. #1 - 41 FR 46812 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76
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
Mod. #2 - 41 FR 55266 - 12/17/76
MIDDLESEX COUNTY
Decision #MA76-2102 (B,H,Hw, R, & Marine)
41 FR 37479 - 9/3/76
Mod. #1 - 41 FR 46813 - 10/22/76
Mod. #2 - 41 FR 55267 - 12/17/76
(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
Mod. #2 - 41 FR 55267 - 12/17/76
(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
Mod. #2 - 41 FR 56551 - 12/28/76
(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
Mod. #2 - 41 FR 56551 - 12/28/76
(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
Mod. #2 - 41 FR 56551 - 12/28/76

MICHIGAN

STATEWIDE
Decision #MI76-2140 (Hw, W&S)
41 FR 51318 - 11/19/76
Mod. #1 - 41 FR 54107 - 12/10/76
Mod. #2 - 42 FR 1681 - 1/7/77
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 #MI76-2171 (B,H)
41 FR 56590 - 12/28/76
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
Mod. #1 - 41 FR 54107 - 12/10/76
Mod. #2 - 41 FR 55267 - 12/17/76
Mod. #3 - 42 FR 1680 - 1/7/77
(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
Mod. #2 - 42 FR 1682 - 1/7/77
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.

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 #MN76-2124 (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 23687 - 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 #MS76-1137 (Hw)
41 FR 55271 - 12/17/76
Decision #MS76-1139 (W&S)
41 FR 55259 - 12/17/76
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,Hw, W&S) - See Statewide
(F) - See Adams County
AMITE COUNTY
(D,Hw, 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 #MS76-1142 (B)
41 FR 56593 - 12/28/76
(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
(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
Mod. #3 - 41 FR 56551 - 12/28/76
(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
(B,R) - See Forrest 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 #MO76-4191 (H,Hw)
41 FR 55272 - 12/17/76
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
Mod. #3 - 41 FR 54108 - 12/10/76
Mod. #4 - 41 FR 56551 - 12/28/76
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
Mod. #3 - 41 FR 54107 - 12/10/76
Mod. #4 - 41 FR 56551 - 12/28/76
(D) - See Andrew County
(H,Hw) - See Statewide
GASCONADE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide

MISSOURI (Cont')

GENTRY COUNTY
(H,Hw) - See Statewide
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 45783 - 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
Mod. #1 - 41 FR 56552 - 12/28/76
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 47790 - 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 #NE77-4001 (H,Hw)
42 FR 1615 - 1/7/77
ANTELOPE COUNTY
(H,Hw) - See Adams County
ARTHUR COUNTY
(H,Hw) - See Adams County
BANNER COUNTY
Decision #NE76-4190 (B)
41 FR 54132 - 12/10/76
(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 #NE76-4184 (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 50318 - 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
Mod. #3 - 41 FR 54109 - 12/10/76
(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 Nemaha 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 #NV77-5004 (B,H,Hw)
42 FR 1000 - 1/4/77
CARSON CITY COUNTY
(B,H,Hw) - See Statewide
CHURCHILL COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
Decision #NV76-5114 (R)(Excluding Nevada Test Site)
41 FR 54133 - 12/10/76
Mod. #1 - 42 FR 989 - 1/4/77
(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 #NV76-5115 (R)
41 FR 54138 - 12/10/76
Mod. #1 - 42 FR 989 - 1/4/77
(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 #CT77-5001 (D)
42 FR 999 - 1/4/77
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 #CT77-5001 (D)
42 FR 999 - 1/4/77
BERGEN COUNTY
Decision #NJ76-3252 (R)
41 FR 47827 - 10/25/76
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 Arrita, 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
Mod. #2 - 41 FR 55268 - 12/17/76
Mod. #3 - 41 FR 56553 - 12/28/76
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 #CT77-5001 (D)
42 FR 999 - 1/4/77
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 #NY76-3253 (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 - 10/29/75
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 - 10/29/76
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 #GA77-5005 (D)
42 FR 1015 - 1/4/77
(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 21119 - 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 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)

POLETTE 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
Mod. #5 - 41 FR 56553 - 12/28/76
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 #IL76-5033 (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 #WI-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 - 4/16/76
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

STATEWIDE
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 #PA76-3170 (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 24940 - 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
Mod. #4 - 41 FR 54110 - 12/10/76
(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 #PA76-3245 (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
Mod. #1 - 41 FR 54110 - 12/10/76
(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 #CT77-5001 (D)
42 FR 999 - 1/4/77
(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
Mod. #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 32105 - 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 #CT77-5001 (D)
42 FR 999 - 1/4/77
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 #MD75-3009 (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 - 5/28/76
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 25770 - 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 #TN77-1001 (Hw)
42 FR 1686 - 1/7/77
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 #TN75-1088 (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 #TN76-1140 (R)
41 FR 56593 - 12/28/76
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,R) - 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 #TN76-1131 (B,H,W&S, & Utility)
41 FR 55285 - 12/17/76
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
Mod. #3 - 41 FR 56555 - 12/28/76
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
Mod. #4 - 41 FR 56554 - 12/28/76
(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 #TX76-4193 (B)
41 FR 56594 - 12/28/76
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
Mod. #4 - 41 FR 54111 - 12/10/76
Mod. #5 - 41 FR 56554 - 12/28/76

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
Mod. #2 - 41 FR 54111 - 12/10/76
Mod. #3 - 41 FR 55269 - 12/17/76
Mod. #4 - 41 FR 56555 - 12/28/76
(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
Mod. #1 - 41 FR 54112 - 12/10/76
Mod. #2 - 41 FR 56555 - 12/28/76
(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
Mod. #3 - 41 FR 56554 - 12/28/76
Decision #TX76-4162 (B)
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 - 11/12/75
Mod. #1 - 41 FR 54112 - 12/10/76
Mod. #2 - 41 FR 56555 - 12/28/76
(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

TEXAS (Cont'd.)

CORYELL COUNTY
(B) - See Bell County
(H,Hw) - See Statewide
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
Mod. #3 - 41 FR 56554 - 12/28/76
(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 #TX76-4194 (B)
41 FR 56596 - 12/28/76
(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 #TX76-4195 (B)
41 FR 56598 - 12/28/76
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

TEXAS (Cont'd.)

GREGG COUNTY (Cont'd.)
Mod. #3 - 41 FR 46819 - 10/22/76
Mod. #4 - 41 FR 56554 - 12/28/76
Decision #TX76-4163 (R)
41 FR 44676 - 10/8/76
(H,Hw) - See Statewide
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 #TX76-4196 (B)
41 FR 56601 - 12/28/76
(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 #TX76-4192 (B,R)
41 FR 55289 - 12/17/76
(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 #TX76-4197 (B)
41 FR 56602 - 12/28/76
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
SOMERWELL 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 (B)
39 FR 22400 - 6/21/74
TAYLOR COUNTY
Decision #TX76-4171 (B)
41 FR 44664 - 10/8/76
Mod. #1 - 41 FR 56555 - 12/28/76
(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
Mod. #4 - 41 FR 54111 - 12/10/76
Mod. #5 - 41 FR 55269 - 12/17/76
(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 - 8/6/76
Mod. #2 - 41 FR 35330 - 8/20/76
Mod. #3 - 41 FR 44607 - 10/8/76
Mod. #4 - 41 FR 45798 - 10/15/76
Mod. #5 - 41 FR 56554 - 12/28/76
(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
Mod. #2 - 41 FR 54112 - 12/10/76
Mod. #3 - 42 FR 989 - 1/4/77
Mod. #4 - 42 FR 1683 - 1/7/77
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 #VT76-2170 (Hw)
41 FR 54146 - 12/10/76
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 15204 - 4/4/75
Mod. #3 - 40 FR 23631 - 5/30/75
Mod. #3 - 41 FR 50122 - 11/12/76
Decision #GA77-5005 (D)
42 FR 1015 - 1/4/77
ALBEMARLE COUNTY
Decision #VA76-3244 (Hw)
41 FR 38784 - 9/10/76
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 #H076-3285 (B)
41 FR 51308 - 11/19/76
Mod. #1 - 41 FR 55269 - 12/17/76
ALLEGHANY COUNTY
Decision #VA76-3245 (Hw)
41 FR 38748 - 9/10/76
Mod. #1 - 41 FR 40374 - 9/17/76
Mod. #2 - 41 FR 43569 - 10/1/76
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
(Hw) - See Alleghany County
BATH COUNTY
(Hw) - See Alleghany County
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
(B,Hw) - See Albemarle 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 43569 - 10/1/76
Mod. #3 - 41 FR 50122 - 11/12/76
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
(Hw) - See Alleghany County
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
(Hw) - See Albemarle County
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
(Hw) - See Albemarle County
FLOYD COUNTY
(Hw) - See Bedford County
FLUVANNA COUNTY
(Hw) - See Albemarle County
FORT MONROE CITY
(Hw) - See Chesapeake City
(B,H,WBS) - See York County
FRANKLIN CITY
(Hw) - See Accomack County
FRANKLIN COUNTY
(Hw) - See Bedford County
FREDERICK COUNTY
(R) - See Clarke County
(Hw) - See Alleghany 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
(Hw) - See Albemarle County
GREENSVILLE COUNTY
(Hw) - See Accomack County
HALIFAX COUNTY
(Hw) - See Amherst County
HAMPTON CITY
Decision #VA76-3254 (R)
41 FR 44660 - 10/8/76
(B,H,WBS) - 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
(Hw) - See Alleghany County
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
(Hw) - See Albemarle County
LOUISA COUNTY
(Hw) - See Albemarle County
LUNENBURG COUNTY
(Hw) - See Amelia County
LYNCHBURG CITY
(B) - See Campbell County
(Hw) - See Amherst County
MADISON COUNTY
(Hw) - See Albemarle County
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,WBS) - 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
(Hw) - See Albemarle County

VIRGINIA (Cont'd)

PAGE COUNTY
(Hw) - See Alleghany County
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 (Radford Army Ammunition Plant)
Decision #VA76-3220 (B)
41 FR 33186 - 8/6/76
(Hw) - See Bedford County
RAPPAHANNOCK COUNTY
(Hw) - See Albemarle County
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
(Hw) - See Alleghany County
ROCKINGHAM COUNTY
(Hw) - See Alleghany County
RUSSELL COUNTY
(Hw) - See Bland County
SALEM CITY
(Hw) - See Bedford County
SCOTT COUNTY
(Hw) - See Bland County
SHENANDOAH COUNTY
(Hw) - See Alleghany 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
(Hw) - See Alleghany County
WASHINGTON COUNTY
(Hw) - See Bland County
WAYNESBORO CITY
(Hw) - See Alleghany 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 #WA76-5119 (R)
41 FR 54148 - 12/10/76
(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
Mod. #1 - 41 FR 55270 - 12/17/76
Decision #GA77-5005 (D)
42 FR 1015 - 1/4/77
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 #WV76-3282 (B)
41 FR 56604 - 12/28/76
(H,Hw) - See Statewide
BERKELEY COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
BRAXTON COUNTY
(B) - See Barbour County
(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 Barbour County
(H,Hw) - See Statewide
GREENBRIER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HAMPSHIRE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd)

HANCOCK COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HARDY COUNTY
(B) - See Barbour 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 35948 - 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 Barbour County
(H,Hw) - See Statewide
LOGAN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MC DOWELL COUNTY
(B) - See Barbour 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 Barbour County
(H,Hw) - See Statewide
MINERAL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MINGO COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MONONGALIA COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd.)

MONROE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MORGAN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
NICHOLAS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
OHIO COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PENDLETON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PLEASANT COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
(B) - See Barbour County
POCAHONTAS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PRESTON COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RALEIGH COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RANDOLPH COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RITCHIE COUNTY
(H,Hw) - See Statewide
(B) - See Barbour County
ROANE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
SUMMERS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TAYLOR COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TUCKER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TYLER COUNTY
(D) - See Cabell County
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd.)

UPSHUR COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WAYNE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WEBSTER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WETZELL COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
WIRT COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WOOD COUNTY
(B) - See Barbour County
(D) - See Cabell County
(H,Hw) - See Statewide
WYOMING COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WISCONSIN

STATEWIDE
Decision #WI76-2119 (Hw)
41 FR 44601 - 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 #WI76-2157 (B,R)
41 FR 55292 - 12/17/76
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 #WI76-2160 (B)
41 FR 55297 - 12/17/76
(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 #WI76-2161 (B,R)
41 FR 55299 - 12/17/76
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 #WI76-2162 (B,R)
41 FR 54150 - 12/10/76
(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 #WI76-2167 (B,R)
41 FR 55301 - 12/17/76
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 #WI76-2168 (B)
41 FR 55030 - 12/17/76
(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 #WI76-2158 (B)
41 FR 55295 - 12/17/76
(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 #WI76-2169 (B,R)
41 FR 56620 - 12/28/76
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
RICHLAND COUNTY
(H,Hw, W&S) - See Statewide
ROCK COUNTY
Decision #WI76-2163 (B)
41 FR 54152 - 12/10/76
(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 #WI76-2164 (B)
41 FR 54154 - 12/10/76
(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

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