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Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This addition excepts from the competitive service under Schedule C one position of Confidential Assistant (Secretary) to the Associate Administrator for Policy and Program Evaluation because of the confidential nature of the position.

EFFECTIVE DATE: April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Bill Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3388(p) is added as set out below:

§ 213.3388 Federal Energy Administration.

* * * * *

(p) *Office of the Associate Administrator for Policy and Program Evaluation.*

(1) One Confidential Assistant (Secretary) to the Associate Administrator.

(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.77–11026 Filed 4–14–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C two positions of Special Assistant to the Under Secretary because the positions are confidential in nature.

EFFECTIVE DATE: April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Bill Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3384(a) (9) is amended to read as follows:

§ 213.3384 Department of Housing and Urban Development.

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

(9) Three Special Assistants to the Under 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.77–11025 Filed 4–14–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Urban Policy Advisor to the Secretary because the position is confidential in nature.

EFFECTIVE DATE: April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Bill Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3384(a) (62) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

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

(62) One Urban Policy Advisor 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.77–11024 Filed 4–14–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Justice

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment reestablishes under Schedule C the position of Private Secretary to the Associate Attorney General because of the confidential nature of the position.

EFFECTIVE DATE: April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Bill Bohling, 202–632–4533

Accordingly, 5 CFR 213.3310(a) (9) is amended to read as follows:

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.* * * *

(9) One Private Secretary to the Associate Attorney General.

(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.77–11022 Filed 4–14–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Labor

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Special Assistant to the Under Secretary because the position is confidential in nature.

EFFECTIVE DATE: April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Bill Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3315(a) (13) is added as set out below:

§ 213.3315 Department of Labor.

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

(13) One Special Assistant to the Under 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.77–11023 Filed 4–14–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This addition excepts from the competitive service under Schedule C one position of Secretary (Stenography) to the Assistant Secretary for Policy, Plans and International Affairs because of the confidential nature of the position.

EFFECTIVE DATE: April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Bill Bohling, 202–632–4533.

Accordingly, 5 CR 213.3394(a) (21) is amended to read as follows:

§ 213.3394 Department of Transportation.

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

(21) One Secretary (Stenography) and one Special Assistant to the Assistant Secretary for Policy, Plans and International Affairs.

(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.77-11021 Filed 4-14-77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This addition excepts from the competitive service under Schedule C one position of Confidential Assistant (Secretary) to the Assistant Administrator for Regulatory Programs because of the confidential nature of this position.

EFFECTIVE DATE: April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3388(o)(2) is added as set out below:

§ 213.3388 Federal Energy Administration.

* * * * *

(o) *Office of the Assistant Administrator for Regulatory Programs.* * * *

(2) One Confidential Assistant (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.77-11169 Filed 4-14-77;8:45 am]

Title 9—Animals and Animal Products

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

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 72—TEXAS (SPLENETIC) FEVER IN CATTLE

Deletion of Arsenical Solution From List of Permitted Dips

AGENCY: Animal and Plant Health Inspection Service, (USDA).

ACTION: Final Rule.

SUMMARY: The purpose of this amendment is to delete arsenical solution from the list of dips permitted by the Department in official dipping of cattle for interstate movement, and to delete requirements for determination of suitability of such dips. These deletions are required because the Environmental Protection Agency has rejected the petition for registration of arsenical cattle dips.

EFFECTIVE DATE: April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, USDA, APHIS, VS, Room 737, Federal Building, Hyattsville, MD 20782, 301–436–8322.

SUPPLEMENTARY INFORMATION: The provisions in 9 CFR Part 72 allow cattle to be moved interstate after dipping in certain permitted proprietary brands of pesticides when the pesticides have been specifically approved by the Department. Heretofore arsenical solution has been permitted for dipping cattle; however, the Environmental Protection Agency, which is charged with registering pesticides, has rejected the petition for registration of arsenical cattle dips.

Accordingly, Part 72, Title 9, Code of Federal Regulations, is amended in the following respects:

§ 72.13 [Amended]

1. In § 72.13, paragraph (b)(1) is deleted. The remainder of § 72.13(b) is renumbered in light of the deletion of (b)(1).

§ 72.14 [Deleted]

2. § 72.14 is deleted in its entirety.

(Secs. 1 and 2, 32 Stat. 791, 792, as amended; secs. 4–7, 23 Stat. 32, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126; 37 FR 28464, 28477; 38 FR 19141.)

The amendment removes approved proprietary brands of an arsenical solution from the list of permitted dips approved by the Department for use in official dipping of cattle because the Environmental Protection Agency has rejected the petition for registration of arsenical cattle dips. This amendment should be made effective promptly to be of maximum benefit to persons affected. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 8th day of April 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.

NORVAN L. MEYER,
Acting Deputy Administrator Veterinary Services.

[FR Doc.77-11034 Filed 4-14-77;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 932—COASTAL ZONE MANAGEMENT INTERSTATE GRANTS

Application Procedures

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final Rule.

SUMMARY: These final regulations establish procedures by which entities can apply for and receive grants for interstate coordination of coastal management issues affecting two or more States in a region. These regulations are necessary because of a new law amending the Costal Zone Management Act.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Carol Sondheimer; Chief, Program Planning; State Programs Division; Office of Coastal Zone Management; 202–634–1672.

SUPPLEMENTARY INFORMATION: On December 22, 1976, NOAA published proposed regulations (41 FR 55786) covering the requirements for interstate grants pursuant to section 309 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451, et seq.), hereinafter referred to as the "Act."

As a result of Pub. L. 94–370, signed on July 26, 1976, which added a new section 309 to the Act, it is necessary to issue new regulations.

Written comments were requested by January 24, 1977. As of that date, substantive comments had been received from ten reviewers. Three of these reviewers commented on the basic purposes of the grants; four commented on the definition of contiguous areas; three commented on the uses of grants; five commented on funding priorities; three commented on review and approval procedures; and two reviewers had miscellaneous comments. These comments have been considered prior to issuance of these regulations in final form. Major comments and NOAA responses are discussed below.

DISCUSSION OF MAJOR COMMENTS AND NOAA RESPONSES

BASIC PURPOSES

(a) *Timing of interstate efforts:* Two commentators noted that the language of § 932.1(a) implied that interstate efforts not already underway would be ineligible for funding and that such efforts would have to be initiated prior to management program approval in order to be eligible for funding afterward.

NOAA response: Although it was not so intended, NOAA agrees that the proposed language could be read this way. Accordingly, the language of § 932.1(a) has been revised to indicate that interstate activities are eligible for funding under section 309 if developed or undertaken as part of

program implementation as well as during program development.

(b) *Use of term "unified":* One commentator objected to the use of the term "unified" when applied to policies, plans, or programs because it appeared to require the same policies rather than permitting similar, compatible ones. It was suggested that the term "compatible" be substituted.

NOAA response: While noting that the expression "unified coastal zone policies" is a direct quotation from the Act, NOAA agrees that the term "compatible" is a reasonable interpretation of the Act's intent, and therefore has substituted this term for the term "unified" whenever a direct quotation from the Act is not involved.

(c) *Program implementation by interstate entities:* One commentator suggested that § 932.1(a) be revised to allow interstate entities to implement States' coastal zone management programs.

NOAA response: NOAA does not agree that this change is necessary since utilization of interstate entities by a single State for implementation purposes already is provided for under section 306(f) of the Act.

DEFINITION OF CONTIGUOUS AREAS

(a) *Breadth of definition:* One commentator maintained that the term "contiguous areas" should include only those land and water areas within the defined coastal zone but not those areas which affect the coastal zone.

NOAA response: NOAA believes that a broad definition of the term "contiguous," including areas affecting the coastal zone, is consistent with the Act's intent. Neither section 309 of the Act nor the implementing regulations endeavor to redefine "coastal zone" nor to extend State jurisdiction beyond that which exists under present law. The use of the term "affecting" simply recognizes the fact that issues and problems outside the defined coastal zone are often relevant to and impact upon the coastal zone.

(b) *Regional groupings:* One commentator assumed that the groupings of States listed in § 932.3(d) (1)–(6) were illustrative only. A second commentator suggested that it be made clear that contiguous areas could not be established from two or more regional groupings. A third commentator requested that a seventh grouping be added to include all ocean islands, on the grounds that they have common environmental, economic, social, and administrative problems.

NOAA response: NOAA believes that the language in § 932.2(d) clearly indicates that the groupings of States listed are the only ones which will be considered contiguous for the purposes of section 309 grants, and accordingly contemplates no change in the language. A grouping of Pacific and Caribbean islands as one region not logically appear to constitute a "contiguous area." However, a separate grouping of Pacific islands and one of Caribbean islands would represent appropriate regional groupings. Such groupings are possible as subgroups of § 932.2(d) (1) and (6).

USE OF GRANTS

(a) *State-Federal consultation mechanism:* One commentator suggested that the language of § 932.3(a)(3) be amended to reflect the Act's emphasis on the establishment of Federal-State consultation procedures for dealing with marine and coastal area problems. Another commentator suggested that existing Federal Regional Councils would be an appropriate forum and effective mechnism for such consultation.

NOAA response: NOAA agrees with the first commentator that § 932.3(a)(3) should include a reference to State-Federal consultation procedures, and has added such a reference. In response to the second commentator, NOAA does not believe that it is appropriate to specify by regulation the particular mechanism for State-Federal consultation which States may choose, and therefore has made no change in the regulations.

(b) *Activities consistent with sections 305 and 306:* One commentator stated that the definition of activities deemed consistent with sections 305 or 306 of the Act, as set out in § 932.3(b), was unduly broad and would allow grants for activities which might have only a tenuous relationship to sections 305 and 306. A second commentator asked whether some cooperating States in an interstate effort could be doing program development work while others were doing program administrative work. This commentator also suggested that, in order to deal with unanticipated problems, States should not be required to reflect proposed interstate problems in their work programs.

NOAA response: NOAA does not agree with the first commentator that the definition of consistency with sections 305 and 306 is too broad. NOAA considers activities related to or derived from approved State management programs or from approved work programs as entirely appropriate for section 309 funding. In response to the second commentator, NOAA does not require that all States cooperating in a given interstate effort be at the same stage of program development or implementation, but NOAA does believe that interstate concerns should be reflected in one or more of the participating States' work programs or approved management programs to be eligible for funding under section 309.

(c) *Permissible work activities:* One commentator found the list of permissible activities in § 932.3(c) to be too restrictive and suggested that they be considered examples rather than limits.

NOAA response: NOAA agrees and accordingly has changed the language of § 932.3(c) so as not to preclude other reasonable work activities.

(d) *Ineligible work activities:* One commentator found § 932.3(d) too restrictive, while a second felt that the requirement as stated would put the Associate Administrator in the position of having to determine the results of a study before it was undertaken and/or would commit the coastal States to policies before they knew what they were.

NOAA response: NOAA agrees that § 932.3(d) is awkwardly phrased and therefore has deleted the first part of the sentence, leaving only a simple prohibition against section 309 funding of activities which are more appropriately funded under section 308 or 310 of the Act.

(e) *Eligible applicants:* One commentator suggested that a single State be permitted to apply for a grant on behalf of one or more other States so that the applicant could undertake the preparatory work necessary to establish a temporary or permanent interstate entity.

NOAA response: NOAA agrees that this is reasonable, particularly where States are contemplating the establishment of a new, permanent interstate entity. Accordingly, § 932.11(a)(4) has been added in order to permit application by one State on behalf of itself and others, provided the other States concur with this arrangement.

FUNDING PRIORITIES

(a) *Funding priorities:* Four commentators objected to giving funding priority to new interstate entities (established pursuant to section 309(b) where existing entities have the needed capabilities. These commentators maintained that such priority encouraged unnecessary duplication. One commentator suggested that existing entities be given a least equal funding priority where they met the basic needs of the participating States. Two of the commentators argued that the policy established in § 932.11(b) (i.e., that the Associate Administrator does not encourage the establishment of temporary entities duplicative of existing entities where the existing entity has demonstrated capability) should be carried to its logical conclusion and extended to permanent entities as well. Another commentator maintained that the establishment of new compacts or interstate arrangements should be prohibited where such compacts already exist.

NOAA response: NOAA agrees that the statement of funding priorities in the proposed regulations could serve to encourage unnecessary duplication and accordingly has deleted the proposed § 932.12. In its place, NOAA has substituted a new § 932.12 which incorporates and consolidates the funding priorities implicit in §§ 932.11(b) and 932.32 of the proposed regulations. These two sections therefore have been deleted from the final regulations.

(b) *Federal matching share:* One commentator suggested, as an alternative to the funding priorities established by the proposed regulations, that the Associate Administrator reduce the percentage of the Federal share in order to fund additional entities.

NOAA response: While NOAA has the discretion to fund section 309 grants at less than 90 percent, it is not NOAA's intention to establish priorities by use of a sliding percentage scale. Instead, NOAA will use the priorities established in these regulations and will be prepared to fund all successful applicants at 90 percent, assuming available funds.

REVIEW/APPROVAL PROCEDURES

(a) *Federal agency concurrence in grant applications:* One commentator objected to § 932.22(c)(3), as giving Federal agencies the authority to veto interstate coordination efforts funded pursuant to section 309.

NOAA response: It is NOAA's intention to require Federal agency concurrence only where the participation of a Federal agency or agencies is integral to the accomplishment of the proposed work program. To clarify this point, § 932.22 (c)(3) has been reworded.

(b) *Public review of grant applications:* One commentator suggested that notice of receipt of an application for section 309 funds be published in the FEDERAL REGISTER and that the application be available for public review and comment for 60 days prior to awarding a grant in order to encourage public participation.

NOAA response: NOAA is not aware of any similar grant program which uses this approach, primarily because all such programs are subject to the provisions of Office of Management and Budget Circular No. A-95 which provides for State and/or local notification, review, and comment on proposed applications. NOAA believes this procedure provides sufficient and appropriate public notice. Accordingly, no change has been made.

(c) *Review of proposed compacts:* One commentator asked whether NOAA review of proposed compacts would include a finding that the compact or agreement was consistent with the policies and objectives of the Act itself.

NOAA response: In reviewing proposed compacts, NOAA does not believe it is necessary to make a formal finding of consistency with the Act. However, there must be a finding of consistency with sections 305 and 306 of the Act, pursuant to section 309(a)(2).

MISCELLANEOUS

(a) *Notification of A-95 areawide clearinghouses:* One commentator suggested that the regulations should recognize the fact that some section 309 applications may contain work elements which have areawide or local applicability and therefore should be reviewed at the area wide level.

NOAA response: NOAA agrees with this suggestion and has revised the language of § 932.42(a) accordingly.

(b) *Definition of "temporary entity":* One commentator questioned the definition of the "life" of a temporary entity in § 932.2(f), noting that a temporary entity might require more than one year to accomplish effective interstate coordination.

NOAA response: NOAA believes the commentator misunderstood the regulations which do provide that a temporary entity may exist until September 30, 1980, the time at which section 309 authorization expires. The regulations contemplate that grants will be on an annual basis, but do not preclude a particular entity from applying for a renewal or continuation of its grant. Therefore, no change is made in the regulations.

NOAA has reviewed these regulations pursuant to the National Environmental Policy Act of 1969 and has determined that promulgation of these regulations will have no significant impact on the environment.

NOTE.—*Compliance with Executive Order 11821.* The economic and inflationary impact of these regulations has been evaluated in accordance with OMB Circular No. A-107, and it has been determined that no major economic impact will result.

Following consideration of comments received and other relevant information, there are adopted below revised final regulations describing procedures for applying for and receiving interstate grants pursuant to section 309 of the Act.

Dated: April 12, 1977.

T. P. GLEITER,
Assistant Administrator for Administration.

In consideration of the foregoing, Part 932 is issued as follows:

Subpart A—General

Sec.
932.1 Basic purposes.
932.2 Definitions.
932.3 Use of grants.

Subpart B—Eligible Entities

932.10 General.
932.11 Eligible entities.
932.12 Funding priorities among entities.

Subpart C—Review/Approval Procedures

932.20 General.
932.21 Presubmission consultation.
932.22 Formal submission and review.

Subpart D—Permanent Interstate Coastal Management Compacts or Agreements

932.30 General.
932.31 Review by NOAA for non-conflict with laws and treaties of the United States.
932.32 Federal consultation procedures.

Subpart E—Application for Interstate Grants

932.40 General.
932.41 Applicant responsibility.
932.42 Application procedure.
932.43 Approval of applications.
932.44 Amendments.

AUTHORITY: Sec. 309, Coastal Zone Management Act of 1972. (Pub. L. 92-583, 86 Stat. 1280, as amended by Pub. L. 94-370, 90 Stat. 1013).

Subpart A—General

§ 932.1 Basic purposes.

(a) This section establishes the basic purposes for which interstate grants pursuant to subsections 309(a) and 309(d) of the Act may be awarded. The basic intent of interstate grants under these subsections is to provide support for cooperative interstate and regional efforts on the part of coastal states during the program development phase undertaken pursuant to section 305 of the Act and/or the program administration phase undertaken pursuant to section 306 of the Act. Cooperative efforts may consist of coordinating coastal zone planning, policies, and programs; and/or studying, planning, and implementing compatible coastal zone policies. These cooperative efforts may also consist of establishment of effective mechanisms, including especially State-Federal consultation procedures, for the identification, examination and cooperative resolution of mutual problems with respect to marine and coastal areas affecting the applicable coastal zone.

(b) *Comment.* Statutory Citation, subsection 309(a):

The coastal states are encouraged to give high priority—

(1) To coordinating state coastal zone planning, policies, and programs with respect to contiguous areas of such states; and

(2) To studying, planning, and implementing unified coastal zone policies with respect to such areas * * *

(c) *Comment.* Statutory Citation, subsection 309(b):

The consent of the Congress is hereby given two or more coastal states to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

(1) Developing and administering coordinated coastal zone planning, policies and programs pursuant to sections 305 and 306; and

(2) Establishing executive instrumentalities or agencies which such states deem desirable for the effective implementation of such agreements or compacts * * *

(d) *Comment.* Statutory Citation, subsection 309(d):

If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal zone activities described in subsection (a) and may make grants to assist any group of two or more coastal states to create and maintain a temporary planning and coordinating entity to—

(1) Coordinate state coastal zone planning, policies, and programs with respect to contiguous areas of the states involved;

(2) Study, plan, and implement unified coastal zone policies with respect to such areas; and

(3) Establish an effective mechanism, and adopt a Federal-State consultation procedure, for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone * * *

§ 932.2 Definitions.

(a) The term "Act" means the Coastal Zone Management Act of 1972, as amended.

(b) The term "Secretary" means the Secretary of Commerce or his/her designee. Delegations of authority from the Secretary to the Administrator, National Oceanic and Atmospheric Administration, have been duly executed by Amendment 5 of Department of Commerce Organization Order 25-5A, dated October 13, 1976; and from the Administrator to the Associate Administrator for Coastal Zone Management, by NOAA Circular 76-82, effective October 13, 1976.

(c) The term "Associate Administrator" means the Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(d) The term "contiguous areas" means those land or water areas in or affecting the coastal zone of two or more states which collectively constitute an interrelated ecological, economic, social, or administrative unit for the purposes for which an interstate grant is sought.

Areas will be considered contiguous if they involve or affect the coastal zones of any of the following groups of states, or any subgroups thereof:

(1) Pacific States including California, Oregon, Washington, Alaska, Hawaii, Guam and/or American Samoa;

(2) Great Lakes States including Michigan, Minnesota, Wisconsin, Ohio, Illinois, Indiana, New York and/or Pennsylvania;

(3) New England States including Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut and/or New York;

(4) Mid-Atlantic States including Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland and/or Virginia;

(5) South Atlantic States including Virginia, North Carolina, South Carolina, Georgia, and/or Florida; and

(6) Gulf States including Florida, Alabama, Mississippi, Louisiana, Texas, Puerto Rico and/or the U.S. Virgin Islands.

(e) The term "marine and coastal areas" means the State's defined coastal zone including waters (and lands thereunder) within a State's territorial limit as well as waters (and lands thereunder) beyond this territorial limit but within the extended lateral seaward boundaries of States as determined pursuant to subsection 308(b)(3)(B) of the Act.

(f) The term "temporary" means either the duration of a particular project in which case "temporary" means one year, or the life of a particular entity which may be created for purposes of receiving grants under section 309 of the Act, in which case "temporary" means no longer than September 30, 1980, which is the expiration date for authorizations under this section, pursuant to subsection 318(a)(4) of the Act.

§ 932.3 Use of grants.

(a) Pursuant to subsections 309(a) and 309(d) of the Act, the Associate Administrator will consider for funding any cooperative effort involving contiguous areas of two or more States if the purposes of such cooperative effort are consistent with section 305 or 306 of the Act and are designed specifically to:

(1) Coordinate State coastal zone planning, policies and programs with respect to contiguous areas of such States; and/or

(2) Study, plan and/or implement compatible coastal zone policies with respect to such contiguous areas; and/or

(3) Establish effective mechanisms for the identification, examination and/or cooperative resolution of mutual problems with respect to marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. Particular consideration should be given to establishment of State-Federal consultation procedures.

(b) The Associate Administrator will deem an interstate cooperative effort to be consistent with sections 305 or 306 of the Act if the activities proposed are related to or derived from goals, objectives, mutual issues, problems, and/or needs identified by one or more States in their approved section 306 management programs or their program development or program implementation work programs funded pursuant to section 305 or section 306 respectively.

(c) Specific work activities in any interstate cooperative effort funded pursuant to section 309 of the Act may include, but are not limited to:

(1) Collection and analysis of data;

(2) Preparation and dissemination of reports and position papers;

(3) Development of agreements with individual Federal agencies, including regional offices of these agencies;

(4) Establishment of interstate agreements or compacts pursuant to subsection 309(b) of the Act; and

(5) Holding of workshops and similar, necessary meetings or conferences.

(d) The Associate Administrator will not consider funding activities under this section of the Act which could be funded more appropriately under section 308 or section 310 of the Act.

(e) The Associate Administrator will not consider funding under section 309 of the Act any work activity which will be performed by an interstate entity on behalf of only a single coastal state. This prohibition on the use of section 309 grants does not preclude a state from exercising its option pursuant to subsections 305(g) and 306(f) of the Act to allocate, with the approval of the Associate Administrator, portions of its grant to any interstate agency for carrying out approved work program activities.

Subpart B—Eligible Entities

§ 932.10 General.

(a) The Associate Administrator will consider an applicant eligible for a grant under section 309 of the Act if the applicant meets the criteria listed in § 932.11 and if the applicant and the proposed grant activities have the explicit, written support of the state management agencies designated pursuant to 920.52 or 923.33 of this chapter. The content of what must be in this written support is contained in § 932.42.

(b) Applications will be considered from more than a single interstate or bistate entity in a particular region (as listed in § 932.2(d)), depending on the nature of the issues to be addressed, the qualifications of entities to address those issues, and the nature and number of states affected by the applications.

§ 932.11 Eligible entities.

(a) The Associate Administrator will consider any of the following to be eligible entities for the purpose of applying for grants pursuant to subsections 309(a) or 309(d) of the Act:

(1) An executive instrumentality or agency established by an interstate agreement or compact pursuant to subsection 309(b);

(2) A temporary planning and coordinating entity created by two or more States in a region, with the concurrence of the Associate Administrator, to serve the purposes of subsection 309(d);

(3) An existing regional, interstate entity designated by the States involved, and with the concurrence of the Associate Administrator, to address issues identified in § 932.3, or

(4) A coastal State funded pursuant to section 305 or section 306 of the Act, and with the concurrence of the Associate Administrator, acting on its own behalf and that of one or more other States in a particular region.

§ 932.12 Funding priorities among entities.

(a) Higher funding priority will be given to interstate entities which contain a State-Federal consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

(b) *Comment.* Statutory Citation, subsection 309(c):

> Each executive instrumentality or agency which is established by an interstate agreement or compact pursuant to this section is encouraged to adopt a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

(c) *Comment.* Statutory Citation, subsection 309(d)(3):

> If no applicable interstate agreement or compact exists, the Secretary may * * * make grants to assist any group of two or more coastal states to create and maintain a temporary planning and coordinating entity to * * * establish an effective mechanism, and adopt a Federal-State consultation procedure, for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

(d) Existing interstate entities will be given funding priority over temporary entities created pursuant to subsection 309(d) of the Act, where such existing entities can be demonstrated to have the capability or working experience necessary to accomplish the proposed purpose(s) for which the temporary entity would be created.

Subpart C—Review/Approval Procedures

§ 932.20 General.

(a) This section establishes the procedures by which the Associate Administrator will accept and review grant applications pursuant to subsections 309(a) or 309(d) of the Act. These procedures will include presubmission consultation on the part of the applicant with the Associate Administrator, followed by a formal submission by the applicant, and a formal review by the Associate Administrator.

§ 932.21 Presubmission consultation.

(a) States or interstate entities which have identified problems or needs requiring interstate coordination are expected

to consult with the Associate Administrator prior to the formulation of a formal application for a section 309 grant. The purpose of such consultation will be to determine whether the proposed interstate effort will be consistent with the purposes of sections 305 or 306 of the Act, and with the affected States' developing or approved coastal management programs. Such consultation also will facilitate the early determination of the eligibility of the proposed entity and proposed work items. Further, if Federal agencies are to be involved, such consultation also will enable the Associate Administrator to assist States in securing early participation by these Federal agencies in defining mutual problems to be resolved and in determining the procedure to be used for State-Federal consultation.

(1) Where presubmission consultation is initiated by an entity other than the States, that entity should demonstrate evidence of support by the designated coastal management agencies of those States which may be expected to be involved in or affected by the proposed application. At the presubmission consultation stage, evidence of support need not consist of the written documentation, pursuant to § 932.42, required for a formal application.

§ 932.22 Formal submission and review.

(a) After presubmission consultation, a formal application may be submitted by any entity which has been deemed by the Associate Administrator to be an eligible applicant.

(1) A formal submission will contain the information required pursuant to § 932.42. In no case will the Associate Administrator consider an application unless it contains the documentation specified in § 932.42 with respect to States' review and concurrence.

(b) Upon receipt of a formal grant application, the Associate Administrator will initiate an evaluation of the proposal in terms of both programmatic and budgetary considerations.

(1) If the proposal requires the involvement of one or a number of Federal agencies, that proposal will be forwarded to the referenced agency (agencies) for their review and comment within thirty days from receipt of the proposal from the Associate Administrator.

(c) The Associate Administrator will award a grant pursuant to section 309 of the Act assuming availability of funds, if the application:

(1) Is consistent with the purposes and uses of section 309 grants contained in §§ 932.1 and 932.3;

(2) Meets the financial and budgetary requirements contained in § 932.42; and

(3) Is concurred with by affected Federal agencies, only when their participation is essential to accomplishing the proposed work program. Otherwise, Federal agency concurrence is not necessary for the Associate Administrator to approve an interstate grant.

Subpart D—Permanent Interstate Coastal Management Compacts or Agreements

§ 932.30 General.

(a) Subsection 309(b) of the Act establishes prior Congressional consent for two or more coastal states to negotiate and enter into agreements or compacts for certain purposes related to coastal management, provided these compacts or agreements do not conflict with any law or treaty of the United States. This subpart establishes the procedure by which the Associate Administrator will review such compacts or agreements, prior to their ratification, to insure that there is no conflict with U.S. laws or treaties.

§ 932.31 Review by NOAA for nonconflict with laws or treaties of the United States.

(a) Pursuant to subsection 309(b) of the Act, two or more coastal States may enter into agreements or compacts for the following two broad purposes:

(1) Development and administration of coordinated coastal zone planning, policies and programs pursuant to sections 305 and 306 of the Act (i.e., supportive of State coastal management program development or implementation); and

(2) Establishment of executive instrumentalities or agencies which two or more States deem desirable for effective implementation of such agreements or compacts.

(b) Prior Congressional approval is given for such compacts or agreements provided they do not conflict with laws or treaties of the United States. To insure that States do not expend time and money unnecessarily in negotiating and entering into compacts or agreements that may conflict with existing United States laws or treaties, it is recommended that, prior to final ratification of a subject compact or agreement, the relevant document be submitted to the Associate Administrator. The Associate Administrator will undertake a review of the proposed agreement or compact, in consultation with the Department of Justice and with other Federal agencies as appropriate. In order to expedite this review, States are advised to submit relevant documents to the Associate Administrator as early in the negotiation process as is reasonably possible.

(c) *Comment.* Statutory Citation, subsection 309(b):

The consent of Congress is hereby given to two or more coastal states to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States * * *. Such agreements or compacts shall be binding and obligatory upon any state or party thereto without further approval by Congress.

§ 932.32 Federal consultation procedures.

(a) Where a State-Federal consultation procedure is adopted pursuant to subsection 309(c) of the Act, the participation of the following, ex officio, shall be included:

(1) The Associate Administrator;

(2) The Secretary of the Interior;

(3) The Chairman of the Council on Environmental Quality;

(4) The Administrator of the Environmental Protection Agency;

(5) The Secretary of the department in which the Coast Guard is operating;

(6) The Administrator of the Federal Energy Administration; or

(7) Their designated representatives.

(b) The Associate Administrator encourages the inclusion and participation of other Federal agencies, as appropriate, in this consultation procedure.

(c) *Comment.* Statutory Citation, subsection 309(c):

* * * The Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, and the Administrator of the Federal Energy Administration or their designated representatives shall participate ex officio on behalf of the Federal Government whenever any such Federal-State consultation is requested by such an instrumentality or agency.

Subpart E—Application for Interstate Grants

§ 932.40 General.

(a) The purpose of this section is to define the procedures by which grantees apply for and administer grants under section 309 of the Act and to provide guidelines regarding the content of applications for interstate grants. These procedures shall be used and interpreted in conjunction with the Grants Management Manual for Grants under the Coastal Zone Management Act, hereinafter referred to as the "Manual." The Manual incorporates a wide range of Federal requirements, including those established by the Office of Management and Budget, the General Services Administration, the Department of the Treasury, the General Accounting Office, and the Department of Commerce.

(b) Grants shall not exceed ninety percent of the total cost of the interstate project proposed in the grant request. Federal funds received from other sources cannot be used to match section 309 grants. Match provided by the applicant may consist of cash or in-kind services as provided in the Manual.

(c) *Comment.* Statutory Citation, subsection 309(a)(2):

* * * Such coordination, study, planning, and implementation may be conducted pursuant to interstate agreements or compacts. The Secretary may make grants annually, in amounts not to exceed 90 per centum of the cost of such coordination, study, or implementation, if the Secretary finds that the proceeds of such grants will be used for purposes consistent with sections 305 and 306.

(d) *Comment.* Statutory Citation, subsection 309(d)(3):

* * * The amount of such grants shall not exceed 90 per centum of the cost of creating and maintaining such (a temporary planning and coordinating) entity.

(e) Costs claimed as charges to the grant project must be beneficial and necessary to the objectives of the grant project. As used herein the terms costs and grant project pertain to both the Federal grant and the matching share. The allowability of costs will be determined in accordance with the provisions of the General Services Administration Federal Management Circular 74-4: Cost Principles Applicable to Grants and Contracts with State and Local Governments.

§ 932.41 Applicant responsibility.

(a) The application will designate the entity to receive and administer grants pursuant to section 309 of the Act. The applicant must be legally and administratively capable of receiving and administering such grants.

(b) The grantee will be administratively and fiscally responsible for all aspects of the grant, including any subcontracts made by the grantee.

§ 932.42 Application procedure.

(a) All applications are subject to the provisions of Part I, Attachment A of OMB Circular No. A-95 (revised). Applications which do not involve activities which affect or have specific applicability to areawide or local planning and programs need be sent only to the State clearinghouse involved in or affected by the grant application. In all other cases, applications also will be sent to the affected areawide clearinghouses. Where there is doubt as to effects on an areawide clearinghouse jurisdiction, the appropriate State clearinghouse should be consulted.

(b) All applications shall contain documentation signed by the head of the designated State agencies for coastal management program development or program administration designated pursuant to 920.52 and 923.33 of this chapter respectively of the affected States and, where required by State law or interstate agreement, by the Governors of those States, that the designated State agency:

(1) Has reviewed the application and finds the purposes for which the grant will be used are consistent with developing or approved coastal management programs;

(2) Has reviewed the application and supports the proposed work program; and

(3) Has reviewed the capabilities and functions of the applicant entity and supports that entity for purposes of carrying out the activities described in the application;

(4) Where the applicant is an entity established pursuant to subsection 309(b) of the Act, the application will contain a copy of the compact or agreement pursuant to which the entity was created, and documentation that the compact or agreement does not conflict with any law or treaty of the United States. The copy of the compact or agreement and the documentation shall be required only upon initial application for a section 309 grant and will not be required for subsequent applications from the same entity.

(c) The form SF-424, Application for Federal Assistance (Non-Construction Programs), constitutes the formal application and must be submitted 60 days prior to the desired grant beginning date. The application must be accompanied by evidence of compliance with requirements of OMB Circular A-95, including the resolution of any problems raised about the proposed project. The Associate Administrator will not accept applications that are substantially deficient in adherence to either A-95 requirements or the documentation required pursuant to § 932.42(b).

(d) In Part IV, the Program Narrative, the applicant shall respond to the following requirements:

(1) A clear description of the contiguous areas on which the cooperative effort will focus, including a listing of the States' involved in and/or affected by the cooperative effort;

(2) A general discussion of the purposes for which the interstate grant will be used, including the relationship of grant activities to the developing or approved coastal management programs of affected States;

(3) A discussion of the anticipated results of the proposed cooperative effort, including how these results may be expected to affect or be integrated into the coastal management program of affected States;

(4) A description of the work program to be undertaken during the grant period. This work program will include:

(i) A precise description of each major task to be undertaken, how it will be accomplished, and by whom it will be accomplished;

(ii) For each task, identify any "Other Entities," as defined in the Manual, that will be allocated responsibility for carrying out all or portions of the task, and indicate the estimated cost of any subcontract for each allocation. Identify, if any, that portion of the task that will be carried out under contract with consultants and indicate the estimated cost of such contract(s); and

(iii) For each task indicate the estimated total cost. Also indicate the estimated total months of effort, if any, allocated to the task from the applicant's staff.

(e) The sum of all tasks in subparagraph (4) above should equal the total estimated grant project cost.

(f) Using two categories, Professional and Clerical, indicate the total number of personnel in each category on the applicant's staff that will be assigned to the grant project. Also, indicate the number assigned full-time and the number assigned less than full-time in the two categories. Additionally, indicate the number of new positions created in the two categories as a result of the grant project. Indicate total personnel costs.

§ 932.43 Approval of applications.

(a) An application for an interstate grant which complies with the policies and requirements of the Act and the guidance contained in this subpart may be approved by the Associate Administrator, assuming available funding.

(b) Should an application be found deficient, the Associate Administrator will notify the applicant in writing as to the manner in which the application fails to conform to the requirements of the Act or this subpart. Conferences may be held on these matters. Corrections or adjustments to the application will provide the basis for resubmittal of the application for further consideration and review.

(c) The Associate Administrator may, upon finding extenuating circumstances relating to applications for interstate grants, waive appropriate administrative requirements contained herein.

§ 932.44 Amendments.

Amendments to an approved application must be submitted to and approved by the Associate Administrator prior to initiation of the contemplated change. Requests for substantial changes should be discussed with the Associate Administrator well in advance. While all amendments must be approved in writing by the NOAA Grants Officer, approval may be presumed for minor amendments if the grantee has not been notified of objections within 30 working days of date of postmark of the request.

[FR Doc.77-11065 Filed 4-14-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER B—GUIDES AND TRADE PRACTICE RULES

RESCISSION OF OBSOLETE PARTS

AGENCY: Federal Trade Commission.

ACTION: Final Rescission of Certain Trade Practice Rules.

SUMMARY: Action taken is rescission of obsolete trade practice rules for five industries: blueprint and diazotype coaters, electrical contracting, resistance welder manufacturing, slide fastener and library binding industries. The Commission considered trade association comments and concluded that these trade practice rules are not needed in the public interest. The Commission notes that rescission of trade practice rules does not relieve anyone of duties to comply with Commission administered laws. The intended effect of rescission is removal of unnecessary material from official publications.

EFFECTIVE DATE: March 16, 1977.

FOR FURTHER INFORMATION WRITE OR CALL:

Charles H. Slayman, Jr., Attorney, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580 (telephone: 202-724-1193).

SUPPLEMENTARY INFORMATION: Trade practice rules grew out of trade practice conferences convened by the Commission on its own initiative or in response to requests from trade associa-

tions and other members of different industries. Regardless of the industry, trade practice rules often appear in identical or nearly identical language restating statutory provisions and general principles of law concerning deceptive, unfair and anticompetitive acts and practices. The Commission is conducting a thorough review of its trade practice rules to determine which may be in the public interest to keep.

A footnote to 16 CFR 1.6 identifies trade practice rules as early industry guides. Both are administrative interpretations of Commission administered laws. They have provided the basis for voluntary and simultaneous abandonment of unlawful practices by members of industry. Noncompliance with guides may require corrective action under applicable statutes. Trade practice rules and other industry guides should not be confused with newer, specific, directly enforceable trade regulation rules.

The FEDERAL REGISTER on January 16, 1976 (41 FR 2399) reported that certain trade practice rules (16 CFR Parts 28, 64, 149, 193 and 220) were being studied for possible modification or other appropriate action. In that study discussions were held with trade associations that had requested retention of trade practice rules for their industries. Finally associations in three industries withdrew their requests for retention and agreed to rescission of 16 CFR Parts 28, 149 and 193.

16 CFR Part 64. An association requested that Part 64 be retained without any substantial modification or that it be completely rescinded. The Commission is of the opinion that Part 64 should not be retained in its present form because it contains 13 Group II rules and a section on an industry committee. Trade practice rules for the electrical contracting industry resulted from a trade practice conference held March 18, 1931. The conference adopted resolutions dealing with various trade or business practices. The Commission reworded some resolutions, divided them into Group I and Group II and issued them as trade practice rules on November 28, 1931. The Commission stated: "Those in Group I the Commission has approved and those in Group II the Commission has accepted as expressions of the trade." The Commission may now rescind or modify all trade practice rules containing Group II sections. The Commission cease accepting and issuing Group II rules in the early 1960's. On January 21, 1971 (published February 18, 1971 in 36 FR 3116) the Commission rescinded 16 CFR 16.1 the authority to establish industry committees. The Commission did not find a public interest in retaining or in modifying Part 64.

16 CFR Part 220. The organization interested in Part 220 designated sections it wanted retained concerning certain kinds of deceptive and anticompetitive practices and agreed to elimination of other generalized provisions. However the Commission did not find a public interest in keeping such sections because they too are basically in general language.

Actions to date. In the review first announced May 15, 1975 in 40 FR 21047 the Commission has rescinded trade practice rules for 88 industries out of 152 leaving 64 still to be considered for retention, modification or rescission. However the Commission has not granted any request to retain or to modify any trade practice rules. Also still to be considered are 28 guides with particularized provisions rather than the generalized sections of most trade practice rules. The Commission unanimously voted at an open meeting under the Sunshine Act on March 16, 1977 to rescind trade practice rules for five industries published as 16 CFR Parts 28, 64, 149, 193 and 220. The reevaluation project continues.

Accordingly the Commission hereby announces its final rescission of obsolete trade practice rules published in the following Parts of Title 16 of the Code of Federal Regulations.

PART 28—BLUEPRINT AND DIAZOTYPE COATERS INDUSTRY

PART 64—ELECTRICAL CONTRACTING INDUSTRY

PART 149—RESISTANCE WELDER MANUFACTURING INDUSTRY

PART 193—SLIDE FASTENER INDUSTRY

PART 220—LIBRARY BINDING INDUSTRY

The Commission notes that rescission of trade practice rules and industry guides does not relieve anyone of duties to comply with Commission administered laws. Therefore rescission is not an invitation to engage in unfair or deceptive or anticompetitive acts or practices in violation of law.

(Secs. 5, 6, 18(a)(1)(A), amended FTC Act, 38 Stat. 719, 721, 88 Stat. 2193 (15 U.S.C. 45, 46, 57a); 16 CFR 1.5, 1.6, 17.1.)

Effective date: March 16, 1977.

Issued: April 15, 1977.

By the Commission.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-11174 Filed 4-14-77;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER H—REGULATIONS UNDER THE EMERGENCY NATURAL GAS ACT OF 1977

[Doc. No. RM 77-10]

PART 295—EMERGENCY REGULATIONS

Accounting and Billing Procedures for Interstate Natural Gas Pipelines; Rehearing

APRIL 6, 1977.

AGENCY: Federal Power Commission.

ACTION: Rehearing granted for further consideration of Commission's order of February 5, 1977.

SUMMARY: The Commission is granting rehearing of an earlier document which established accounting and billing procedures for interstate natural gas pipelines to reflect payments and receipts under the Emergency Natural Gas Act of 1977. This action does not constitute a grant or denial of the application for rehearing on its merits in whole or in part.

FOR FURTHER INFORMATION CONTACT:

Richard L. Mattingly, Office of the General Council, Telephone No. 202-275-4341.

ORDER GRANTING REHEARING FOR PURPOSES OF FURTHER CONSIDERATION

In the matter of accounting and billing procedures of interstate natural gas pipelines to reflect payments and receipts pursuant to the Emergency Natural Gas Act of 1977, Pub. L. 95-2,

On March 7, 1977, United Gas Pipe Line Company (United) filed in the above-captioned proceeding and application seeking rehearing of the Commission's order issued herein on February 5, 1977 (42 FR 9381, February 16, 1977). The February 5th order prescribed accounting and billing procedures to be followed by natural gas pipelines pursuant to the Emergency Natural Gas Act of 1977.

In order to more fully review the issues raised by United, the Commission shall grant rehearing of the February 5th order solely for purposes of further consideration. This action does not constitute a grant or denial of the application for rehearing on its merits in whole or in part.

The Commission orders: Rehearing of the Commission's order of February 5, 1977, in this docket, is granted for purposes of further consideration.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-10790 Filed 4-14-77;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

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

Nitrofurantoin Tablets and Boluses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: These amendments state the conditions of use of a previously approved new animal drug application (10-358V) of Norwich Pharmacal Co., a Division of Morton-Norwich Products, Inc., Norwich, N.Y. 13815, for nitrofurantoin tablets and boluses, and also sets forth the change of name of the sponsor.

EFFECTIVE DATE: April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: The drug is used for the treatment of canine tracheobronchitis and bacterial urinary tract infections of dogs and cats. This document, reflecting a previously approved NADA and a change of sponsor name, does not require reevaluation of the basic NADA nor does it constitute a reaffirmation of the drug's safety and effectiveness. Since this NADA was approved prior to July 1, 1975, a summary of the safety and effectiveness data and information submitted in accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) to support this application is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 510 and 520 are amended as follows:

1. In Part 510, § 510.600 is amended in paragraph (c)(1) by deleting the firm name "Norwich Agricultural Products" and substituting it with "Norwich Pharmacal Co.," and in paragraph (c)(2) by deleting under entry No. "000947" the firm name "Norwich Agricultural Products" and inserting in its place "Norwich Pharmacal Co.," to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name and address:	*Drug listing No.*
* * * * *	
Norwich Pharmacal Co., a Division of Morton-Norwich Products, Inc., Norwich, N.Y. 13815	000947
* * * * *	

(2) * * *

Drug listing No.:	*Firm name and address:*
000947	Norwich Pharmacal Co. a Division of Morton-Norwich Products, Inc., Norwich, N.Y. 13815.

* * * * *

2. In Part 520 by adding new § 520.1560b to read as follows:

§ 520.1560b Nitrofurantoin tablets and boluses.

(a) *Specifications.* Each tablet contains 10 milligrams of nitrofurantoin. Each bolus contains 50 milligrams of nitrofurantoin.

(b) *Sponsor.* No. 000947 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) *Amount.* 2 milligrams per pound of body weight every 8 hours.

(2) *Indications for use.* It is used for the treatment of epizootic canine tracheobronchitis (kennel cough) and bacterial urinary tract infections of dogs and cats (nephritis and cystitis) when due to nitrofurantoin-susceptible organisms.

(3) *Limitations.* For canine tracheobronchitis, treat for 4 to 7 days. For acute urinary tract infections, treat for 7 to 10 days. For chronic urinary tract infections, treat for 10 to 14 days, or longer as needed. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: This regulation shall be effective April 15, 1977.

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

Dated: April 7, 1977.

PHILIP D. CAZIER,
Acting Director of Bureau of Veterinary Medicine.

[FR Doc.77-10956 Filed 4-14-77;8:45 am]

PART 540—PENICILLIN DRUGS FOR ANIMAL USE

Penicillin Ointment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the regulation providing for the use of Furacin-Penicillin Gel covered by a new animal drug application (NADA) 65-148V, which is the only NADA approved under the regulation and which is the subject of a notice of withdrawal of approval published elsewhere in this issue of the FEDERAL REGISTER.

EFFECTIVE DATE: April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of August 17, 1976 (41 FR 34899), the Director of the Bureau of Veterinary Medicine issued a notice of opportunity for hearing that proposed to withdraw approval of certain approved NADA's for the use of nitrofurazone in food-producing animals in accordance with section 512(e)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)(1)(B)) on the grounds that new evidence not available when the applications were approved, evaluated together with the evidence available at the time of approval, shows that nitrofurazone is not shown to be safe for use under either the approved or currently labeled conditions of use. Furacin-Penicillin Gel, covered by NADA 65-148V, was not included in the notice of opportunity for hearing because it is a topical ointment. Nonetheless, the companion notice published in the FEDERAL REGISTER of August 17, 1976 (41 FR 34884) proposing to revoke the regulations on which the NADA's listed in the notice of opportunity for hearing relied as a condition of their approval, inadvertently proposed to delete a sentence from § 540.380a that pertained to the use of nitrofurazone-penicillin topical ointment. No comments were received on this proposal. Therefore the required prior notice and public procedure have been fulfilled for the promulgation of this rule.

§ 540.380a [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 540 is amended in § 540.380a Penicillin ointment by deleting the sentence in paragraph (a)(1), "If it is intended solely for topical veterinary use and not for udder instillation in dairy animals and is conspicuously so labeled, it may contain nitrofurazone."

Effective date: This amendment becomes effective April 15, 1977.

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

Dated: April 7, 1977.

PHILIP D. CAZIER,
Acting Director of Bureau of Veterinary Medicine.

[FR Doc.77-10896 Filed 4-14-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 694-7]

PART 51—PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

Maintenance of National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This notice extends by one year the date by which State implementation plans under the Clean Air Act must provide for a procedure for the continual acquisition of information used in projecting air pollutant emissions. Because of necessary delays, States will not have EPA guidance to develop their emission growth information systems until July 1977. The deadline is extended to allow States the benefit of that guidance.

EFFECTIVE DATE: April 15, 1977.

ADDRESS: Comments may be addressed to: U.S. Environmental Protection Agency, Office of Air and Waste Management, Office of Transportation and Land Use Policy (AW 443). Attention: Ms. Martha Burke, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Ms. Martha Burke, U.S. Environmental Protection Agency, Office of Air and Waste Management, Office of Transportation and Land Use Policy (AW 443), 401 M Street, SW., Washington, D.C. 20460. Telephone: Commercial—202–755–0570; FTS–755–0570.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On May 3, 1976, EPA promulgated a regulation (40 CFR 51.12(h)(1)) that requires State implementation plans to provide by May 3, 1977, a procedure for the continual acquisition of information used in projecting emissions. The purpose of such a procedure is to provide an early warning system to identify areas that, due to rapid growth in sources of emissions, may exceed a national ambient air quality standard. The areas encompassed by such a procedure should include those at or cleaner than national ambient air quality standards as well as areas where standards are still to be attained in the near future. The procedure should provide warning of potential violations that might occur before regularly scheduled implementation plan updates.

Under § 51.12(h)(3), States would retain information obtained through this procedure for public inspection and would submit the information to EPA upon request. Under § 51.12(h)(4), States would notify EPA if any area is undergoing an amount of development such that it presents the potential for a violation of national ambient air quality standards within a period of 20 years. Further information on this procedure appears in the FEDERAL REGISTER of May 3, 1976, (41 FR 18382), and October 20, 1975 (40 FR 49048).

When EPA proposed § 51.12(h)(1) on October 20, 1975, the Administrator indicated that EPA would provide guidance to the States to assist them in developing a procedure for acquiring emission growth information. At the time the regulation was finally promulgated, however, EPA still had not developed such guidance. EPA has found the task of developing guidance for such a procedure more complex and time-consuming than originally envisioned. Questions that have presented themselves are: What relevant data are already being collected? How frequently should the data be collected? How often should States compile and analyze the data? What methods should the States use to analyze the data? What indicators should trigger additional actions by States? How should the States store the data? Should EPA attempt to outline an automated system of information storage for those States that may wish to use such a system?

EPA decided that the agency did not have the in-house resources to develop the detailed guidance and consequently sought the assistance of a contractor with experience in emissions projection and implementation plan development. Defining the scope of work and obtaining a contractor consumed several months of time. EPA now expects to have the guidance completed by June, 1977.

ACTION TAKEN BELOW:

As a consequence of the delays mentioned above, States will not have EPA guidance to develop their emission growth information systems until July 1977, and would not, in most instances be able to submit by May 3, 1977, an adequate procedure for tracking growth in emissions. Therefore, in the action below, EPA is extending the deadline for submission of the procedure one year—to May 3, 1978. In view of the delays explained above, and in view of the unquestioned need for the States to have the benefit of the overdue guidance, in EPA's judgment it would be unnecessary and impracticable to delay publication of this extension by first proposing it for public comment.

EPA will provide notice in the FEDERAL REGISTER of the availability of the guidance on the procedures for gathering information on growth in emissions.

FOR FURTHER INFORMATION CONTACT:

Martha Burke, Office of Transportation and Land Use Policy, AW–445, Room 901, 401 M Street, SW., Washington, D.C. 20460.

(Secs. 110 and 301(1) of the Clean Air Act, as amended (42 U.S.C. 1857c–5, 1857g(a)).)

Dated: March 31, 1977.

DOUGLAS M. COSTLE,
Administrator.

Title 40, Chapter I, Part 51 of the Code of Federal Regulations is amended by revising paragraph (h)(1) of § 51.12 to read as follows:

§ 51.12 Control strategy: General.

* * * * *

(h)(1) For all areas of the State, the State implementation plan shall, by May 3, 1978, provide for a procedure for the continual acquisition of information used in projecting emissions.

* * * * *

[FR Doc.77–11130 Filed 4–14–77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

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

Alaska Stations That Handle Public Correspondence Radiocommunications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: These editorial amendments will clarify the Commission's rules to better classify and provide for the authorization and operation of land stations in Alaska that handle public correspondence radiocommunications.

EFFECTIVE DATE: April 19, 1977.

ADDRESSES:

Sherman W. Pratt, Aviation and Marine Division, Safety and Special Radio Services Bureau, Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Sherman W. Pratt, 202–632–7197.

Adopted: April 4, 1977.

Released: April 7, 1977.

1. For many years we have granted public coast and Public-fixed station authorizations for stations on land in Alaska for public correspondence radiocommunications, in a manner that is distinctive in some respects from the practice and procedure that applies to other Part 81 public coast stations outside Alaska that provide public correspondence services.

2. Specifically, for operation in Alaska we grant, depending on the authority requested in an application, authorizations for the following categories of stations.

a. Alaska-public fixed stations[1] that operate on assigned fixed frequencies as specified in § 81.708 in Subpart Q of our rules.

b. Public coast stations[2] pursuant to Section 81.304 of our rules that operate on assigned Maritime Mobile Service public correspondence frequencies available generally to public coast stations located anywhere.

c. Alaska-public fixed and public coast stations that are collocated ordinarily are assigned one call sign for both stations. These stations are usually authorized on a single instrument and are assigned both fixed and maritime mobile public correspondence frequencies.

3. Alaska-public fixed and public coast stations in Alaska, whether authorized on individual licenses, or jointly on one license form, are considered by us to be common carriers for hire, or not, depending on whether the applicants check a box on the station application form indictating that a charge will, or will not, be made for radiocommunication services.[3] If an applicant indicates that a charge for services will be made, the application is placed on public notice as required by Section 309(b)(1) of the Communications Act, and no grant is made for an application otherwise in order, earlier than thirty days following

[1] Section 81.9(d) of the rules defines an Alaska-public fixed station as "A station in Alaska, which is open to public correspondence and is licensed by the Commission for radiocommunication between specified fixed points in Alaska exclusively".

[2] Section 81.3(f) of the rules defines a Public coast station as "A coast station open to public correspondence". Public coast stations provide service to vessels.

[3] "Common carrier" or "carrier" is defined in Section 3(h) of the Communications Act, in pertinent part, as "* * * any person engaged as a common carrier *for hire*, in interstate or foreign communications * * *" (emphasis supplied).

that public notice. Applications that indicate no charge will be made for service, are granted routinely upon completion of processing without any statutorily required delay following public notice. All three categories of stations must be open to the public, whether or not a charge for service is made.

4. In assigning frequencies to Alaska-public fixed stations that are performing a public correspondence radiocommunication service formerly provided by the Alaska Communication System,[4] we have, to the extent possible, attempted to insure that these stations will have frequencies for their exclusive use for these communications and that are free from operational or electrical interference. These stations provide a communication service to the public not otherwise available and we are interested in preserving the integrity and quality of that service. The practice, generally, is for these stations to operate with a primary or central station at a geographical location shown in our rules, that communicates with one or more secondary or local stations of the same class on a duplex (paired frequency) arrangement. The primary station uses a specified assigned frequency for transmitting that is different from the frequency specified for use by the stations transmitting to the primary station. The frequencies available to these primary stations and to other public fixed stations communicating with the primary stations have been shown in §§ 81.711 to 81.713 of our rules. Simplex frequencies which are available for assignment to any Alaska-public fixed stations except the primary stations are shown in § 81.710 of our rules. The simplex frequencies are intended to be used by stations other than the primary stations for exchanging communications between secondary stations. The secondary stations may communicate among themselves but if they do so, it must be on the simplex frequencies shown in § 81.710 of the rules. We are making editorial revision of these rule sections for clarity and to delete some obsolescent terms, but we will continue to separate in the rules the two categories of frequencies and we will assign the paired frequencies only for use by a central station and for exchanging communications with a central station.

5. At present our rules do not reflect that applications for Alaska-public fixed or Public Coast stations will not be placed on public notice when the box is checked indicating that no charge is to be made for radio service, nor do the authorizations for the stations indicate whether or not the station is a common carrier and may charge for services. Additionally, our rules do not clearly indicate the conditions under which we will assign frequencies to Alaska-public fixed stations that are performing a common carrier service as successors to the Communications system as explained above. We believe the public interest would be better served if our rules and the authorizations contained this and certain other processing information, and we are, therefore, so amending our rules to provide for this as indicated in the attached Appendix.

6. Since this regulatory action merely promulgates in our rules, a procedural and administrative practice that has been in effect for many years, and constitutes no substantive change that could adversely affect the public, public notice of these rule changes is not necessary and the provisions of 5 U.S.C. 553(a) do no apply.

7. Accordingly, pursuant to authority contained in Section 4(i) and 303(3) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules. Part 81 of the rules is amended as set forth in Appendix attached hereto, effective April 19, 1977.

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

FEDERAL COMMUNICATIONS COMMISSION,
RICHARD D. LICHTWARDT,
Executive Director.

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 81.9(d) is amended to read:

§ 81.9 Alaska-public fixed.

* * * * *

(d) *Alaska-public fixed station.* A fixed station in Alaska, which is open to public correspondence and is licensed by the Commission for radiocommunication between specified fixed points in Alaska exclusively. The stations may be primary stations operating at geographical locations specified in the rules for exchanging communications with secondary stations operating at locations not specified in the rules on paired, duplex channels; or the stations may be secondary stations operating at geographical locations not shown in the rules for exchanging communications with primary stations on paired, duplex channels, or with other secondary stations on single, simplex channels.

* * * * *

2. A new § 81.66 is added as follows:

§ 81.66 Stations on land in Alaska for public correspondence.

(a) Public correspondence Radiocommunication in the maritime mobile service in Alaska may be provided from stations on land by Alaska-public fixed and public coast radio stations in Alaska. These stations may be authorized either on individual authorization instruments, or on a single instrument for both classes of stations, depending upon the request of the applicant as contained in the application. When a station of each class is authorized on a single instrument, only one call sign will be assigned for use by both stations, except when telegraph operation is authorized, in which case a telegraph call sign will also be assigned for radiotelegraphic operations.

(b) The frequencies available for assignment to Alaska-public fixed stations and the conditions for use of the frequencies are the fixed frequencies shown in § 81.708, Subpart Q of this chapter. These frequencies are generally divided into two categories. One group, shown in § 81.710 of the rules are available for simplex assignment to any Alaska-public fixed station except to stations that operate as a primary station for purposes of exchanging duplex communications with secondary stations on paired frequencies. The terms "simplex" and "duplex", as used herein, are employed to indicate: "simplex", single frequency operation, the station transmits and receives on the same frequency; and "duplex", two frequency operation, the station transmits on one frequency and receives on a second or different frequency. The other group, shown in § 81.711 of this chapter are available for assignment on a duplex channel basis to Alaska-public fixed stations that operate on a primary and secondary station arrangement and provide the public correspondence communications service that was formerly furnished, essentially, by the Alaska Communications Service. These frequencies will only be assigned to stations furnishing such services as provided for in § 81.711. The frequencies available for assignment to public coast stations in Alaska are the same maritime mobile frequencies generally available for assignment to stations anywhere of this class as shown in § 81.304 (a) and (b), and in accordance with the service area criteria specified in § 81.303 of this chapter.

(c) Applications for Alaska-public fixed stations and public coast stations in Alaska that indicate on the application form that a charge will be made for radiocommunication services furnished will be placed on public notice as required by Section 309(b)(1) of the Communications Act and such applications, when otherwise in order, will not be granted earlier than thirty days following the issuances of the public notices. Authorizations for these stations will contain a notation that charges for service may be made provided the applicant complies with § 81.179 of this chapter concerning the filing of tariffs for message charges. Applications that indicate that no charge will be made for service will not be placed on public notice and will be granted upon completion of routine processing.

(d) The authorization for stations not placed on public notice will contain a notation indicating that charges for service may not be made. If a licensee desires to commence charging for services, during the term of a station authorization granted without public notice, an application, for modification of license to show that service charges may be made must be filed. The application if otherwise in order, will be granted

[4] In a Memorandum Opinion and Order adopted March 18, 1970 (FCC 70-304, 22 FCC 2d 200) we approved in principle the acquisition and operation of the Alaska Communications System facilities by RCA Alaska Communications, Inc., with some exceptions not here pertinent.

only after the statutorily required public notice period.

(e) Alaska-public fixed stations and public coast stations in Alaska must be open to the public for public correspondence radiocommunications services, but only those that make a charge for this service are common carriers for hire.

3. In § 81.710, the headnote and text are amended to read as follows:

§ 81.710 Frequencies for simplex use available in one or more zones of the Alaska area.

Each of the carrier frequencies set forth in the following tables are available for assignment to Alaska-public fixed stations other than primary stations shown in § 81.711 of this chapter, and, when authorized by station license, may be used by stations employing radiotelephony. These frequencies are authorized for use on a shared basis, except 1660 kHz, with stations of the maritime mobile service. Frequencies designated for use in a specified zone of the Alaska area are available only to coast stations located in that zone. The limitations and conditions of use applicable to each frequency are set forth in § 81.708.

TABLE 1.—*Frequencies below ½ MHz*

[In kiloherts]

Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6
1646			1643		1646
	1649			1652	
			1660		1657
		1708	1706		
1709				1713	
2006				2003	
2419		2422			
	2430		2427	2430	
		2450	2447		2450
		2479	2482		2482
				2506	2506
2512	2509	2512	2509		
	2538	2535			
2566			2563	2506	
2616					
3261			3261	3258	

TABLE 2.—*Frequencies above ½ MHz*

Zone 1	Zone 2 [1]	Zone 3 [1]	Zone 4	Zone 5	Zone 6 [1]
	4791.5	4791.5			4791.5
	6948.5	6948.5			6948.5
	7368.5	7368.5			7368.5
	11437.0	11437.0			11437.0
	11601.5	11601.5			11601.5

[1] Available kiloherts.

4. In Section 81.711, the headnote and text are amended to read as follows:

§ 81.711 Frequencies for duplex use in paired channel operations.

The carrier frequencies in the table below are available for assignment and use in duplex frequency operations, to Alaska-public fixed primary and associated secondary stations that provide, essentially, the public correspondence radiocommunication services formerly furnished by the Alaska Communications System. The frequencies in column two below are available for assignment to primary stations located in the geographical areas listed in column one. The frequencies listed in column three are available for assignment for transmissions as a paired frequency to secondary stations of this class that operate and exchange communications with any of the primary stations in the locations shown in column one. The limitations and conditions of use applicable to each frequency are set forth in § 81.708 of this chapter. The specified frequency or frequencies to be used for transmitting shall be specified on the station authorization.

Location of primary station	Frequencies available (kiloherts)	
	Primary station transmit	Secondary station transmit
(1)	(2)	(3)
Anchorage	3183	3365
		5137.5
		2353
Bethel	2604	2629
		2773
		5204.5
Cold Bay	3241	2691
Cordova	2312	2632
Fairbanks	3167.5	3354
		5207.5
Juneau	2784	2694
	3241	3357
Ketchikan	2604	2256
	3180	2776
King Salmon	3164.5	2466
Kodiak	2781	2474
Kotzebue	2601	2463
Nome	5370	5207.5
	2784	2471
Unalaska	3238	3362
	5370	5134.5

§ 81.712 and § 81.713 [Deleted]

5. Sections 81.712 and 81.713 are deleted.

[FR Doc.77-10962 Filed 4-14-77;8:45 am]

Title 7—Agriculture

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

PART 75—REGULATIONS FOR INSPECTION AND CERTIFICATION OF QUALITY OF AGRICULTURAL AND VEGETABLE SEEDS

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: This action continues the current regulations applicable to the inspection and certification of quality of agricultural and vegetable seeds under Part 68 of Chapter 1 as Part 75 of Chapter 1 of Title 7, Code of Federal Regulations.

EFFECTIVE DATE: April 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Clyde R. Edwards, Chief, Seed Branch, Grain and Seed Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250 (202-447-9340).

SUPPLEMENTAL INFORMATION: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) provides for the inspection of agricultural products to bring about efficient and orderly marketing and to foster and assist in the development of new or expanding markets (domestic and foreign). Said Act also provides for the collection of fees and charges equal to the cost of providing the services.

Regulations for the inspection and certification of quality of agricultural and vegetable seeds are contained in the Part 68 regulations for the inspection of grain and related commodities.

On March 2, 1977, there was published in the FEDERAL REGISTER (42 FR 12033), an amendment of Part 68 transferring delegation of authority for that part from the Agricultural Marketing Service to the Federal Grain Inspection Service, effective April 10, 1977. It therefore is necessary for the Agricultural Marketing Service to promulgate new regulations to continue authority for the inspection of seeds under the Agricultural Marketing Act of 1946.

Accordingly, in order to provide continuity and continued availability of such inspection service until new regulations for agricultural and vegetable seed are adopted, pursuant to sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624), the provisions of Part 68, Chapter I of Title 7, Code of Federal Regulations (7 CFR Part 68), as now in effect and applicable to the inspection and certification of quality of agricultural and vegetable seeds, are continued in effect as Part 75 of Chapter I, Title 7, Code of Federal Regulations as the Regulations for Inspection and Certification of Quality of Agricultural and Vegetable Seeds.

The need for promulgation of these regulations is to continue inspection service without interruption, with no substantive change in the service available. Pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice or other public rulemaking procedures are impractical and unnecessary. Accordingly, Part 75 is added as follows:

§ 75.1 Scope and applicability.

The provisions of Part 68, Chapter I of Title 7, Code of Federal Regulations (7 CFR Part 68), in effect April 1, 1977, continue in effect to the extent applicable to the inspection and certification of quality of agricultural and vegetable seeds inspected pursuant to the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.).

(Secs. 203, 205, 60 Stat. 1087, 1090, as amended; 7 U.S.C. 1622, 1624.)

Done at Washington, D.C. on April 8, 1977.

WILLIAM T. MANLEY,
Acting Administrator.

[FR Doc.77-11064 Filed 4-14-77;8:45 am]

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

[Lemon Reg. 88]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period April 17-23, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: April 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement 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 amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation will tend to effectuate the declared policy of the act.

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

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons is trending easier after being good early in the week. Average f.o.b. price was $5.61 per carton the week ended April 9, 1977, compared to $5.58 per carton the previous week. Track and rolling supplies at 100 cars were down 10 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on April 12, 1977.

§ 910.388 Lemon regulation 88.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period April 17, 1977, through April 23, 1977, is established at 230,000 cartons.

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

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

Dated: April 14, 1977.

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

[FR Doc.77-11265 Filed 4-14-77;12:18 pm]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

[Doc. No. BRIA-1]

PART 1260—BEEF RESEARCH AND INFORMATION

Subpart—Beef Research and Information Order; Establishment of Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Decision and Order.

SUMMARY: This document announces a decision to issue an order to establish a beef research and information program as authorized by the Beef Research and Information Act. The order would provide the industry with sufficient funding to carry out a coordinated program of education, promotion, and research for the entire cattle and beef industry. Such a program, operated on a national basis, would minimize duplication of effort among the various State groups and would be far more efficient and effective than previous, fragmented programs.

DATE: The order becomes effective when approved in a referendum of cattle producers; results of the referendum and the effective date, if applicable, will be announced later.

FOR FURTHER INFORMATION CONTACT:

C. Lowell Strong, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-2389.

SUPPLEMENTARY INFORMATION: A recommended decision including a recommended order to establish a beef research and information program was published on Page 4476 of the FEDERAL REGISTER of January 25, 1977, and corrections were published on Page 5362 of the FEDERAL REGISTER of January 28, 1977. Interested persons were given until February 24, 1977, to file exceptions to the recommended decision. The public hearing on the record of which the recommended decision was formulated was held at Dallas, Texas, September 14 and 15; Pittsburgh, Pennsylvania, September 28; Atlanta, Georgia, September 30; Denver, Colorado, October 5 and 6; San Francisco, California, October 7; and Des Moines, Iowa, October 12 and 13, 1976. Briefs and proposed findings and conclusions were received until November 15, 1976. This hearing was held pursuant to notice which was published in the FEDERAL REGISTER August 17, 1976, 41 FR 34772. The notice set forth a proposed order which was submitted to the Department of Agriculture by a cattle and beef industry group pursuant to rules and regulations for formulating an order published in the FEDERAL REGISTER June 23, 1976, 41 FR 25881. These actions were taken pursuant to authority contained in the Beef Research and Information Act (7 U.S.C. 2901 et seq.).

On the basis of the evidence introduced at the hearing and the record thereof, the Administrator, Agricultural Marketing Service, filed with the Hearing Clerk, U.S. Department of Agriculture, a recommended decision containing notice of the opportunity for interested persons to file exceptions to the decision. Upon review of the record, the material issues, findings and conclusions, rulings, and the general findings of the recommended decision which were published in the FEDERAL REGISTER January 25, 1977, 40 FR 4476 are hereby approved and adopted and are set forth in full herein, with the following modifications:

(1) Changes in the Order provisions:

(a) § 1260.138(e) is changed to reduce the number of Board members from the State of Montana.

(b) § 1260.138(f) is changed to permit additional factors to be considered when updating representation on the Beef Board.

(c) § 1260.142 is changed to clarify the duties of alternate Board members.

(d) § 1260.162(a)(5) is changed to clarify assessments on breeding cattle.

(e) § 1260.162(c) is added because the Act requires the Order to contain a provision for the Secretary to initiate a suit against persons for assessments due.

(2) Changes in the Findings and Conclusions:

(a) Under the heading "(1) *Need for the Order,*" paragraphs 1, 3, 7, 8, and 20 are changed.

(b) Under the heading "(2) *Terms and Provisions of the Order*":

1. Under the heading "(b) *Beef Board*":

a. Under the subheading "*Certification of organizations,*" a new paragraph is added after paragraph 1.

b. Under the subheading "*Nominations*":

i. A new paragraph is added after paragraph 5.

ii. A new paragraph is added after paragraph 7.

iii. A new paragraph is added after paragraph 9.

c. Under the subheading "*Alternate members,*" a new paragraph is added after paragraph 1.

d. Under the subheading "*Compensation,*" paragraph 1 is changed.

e. Under the subheading "*Duties*":

i. Paragraphs 2, 3, and 4 are changed.

ii. A new paragraph is added after paragraph 2.

iii. A new paragraph is added after paragraph 3.

iv. A new paragraph is added after paragraph 4.

2. Under the heading "(c) *Programs and Projects*":

a. Paragraphs 1, 2, and 6 are changed.

b. A new paragraph is added after paragraph 2.

3. Under the heading "(d) *State Beef Councils*":

a. A new paragraph is added after paragraph 5.

b. A new paragraph is added after paragraph 8.

4. Under the heading "(e) *Assessments, Refunds, Expenses*":

a. Under the subheading "*Assessments*":

i. Paragraphs 2 and 10 are changed.

ii. A new paragraph is added after paragraph 1.

iii. Three new paragraphs are added after paragraph 8.

iv. A new paragraph is added after paragraph 10.

v. A new paragraph is added after paragraph 11.

b. Under the subheading "*Refunds,*" paragraph 2 is changed.

c. Under the subheading "*Expenses,*" a new paragraph is added after paragraph 3.

5. Under the subheading "(f) *Records and Reports*":

a. A new paragraph is added after paragraph 1.

b. A new paragraph is added after paragraph 4.

MATERIAL ISSUES

The material issues presented on the record of hearing are as follows:

1. The need for the Proposed Research and Information Order to effectuate the declared policy and purposes of the Act; and

2. The determination of the specific terms and provisions of the Proposed Order necessary to effectuate the declared policy and purposes of the Act, including:

a. Definitions of terms used therein which are necessary and incidental to achieve the objectives of the Order;

b. The establishment, maintenance, composition, powers, duties, procedures, and operation of a Board which shall be the administrative agency for this Order;

c. The authority for establishing and financing the development and implementation of programs and projects of research, information, education, and promotion to improve, maintain, and develop domestic and foreign markets for cattle, beef, and beef products;

d. The establishment and maintenance of an effective working relationship with State beef boards, beef councils, or other beef promotion entities organized to conduct programs with objectives similar to those of this Order;

e. The procedures to levy assessments on the sales of cattle, to make refunds of assessments to producers who request them, and to incur necessary expenses;

f. The provisions concerning record-keeping requirements and reports by slaughterers; and

g. The need for additional terms and conditions as set forth in §§ 1260.181 through 1260.187 of the Order which are necessary to effectuate provisions of the Act.

FINDINGS AND CONCLUSIONS

Cattle are produced in all 50 States and cattle, beef, and beef products move in interstate and foreign commerce and those which do not move in such channels of commerce directly burden or affect interstate commerce of cattle, beef, and beef products. The record is replete with testimony that such commerce in cattle, beef, and beef products is commonplace. Therefore, it is found that the right to exercise Federal jurisdiction with respect to the Order set forth herein is established.

The findings and conclusions on the material issues are based on the evidence presented at the hearing and the record thereof and are as follows:

1. *Need for the Order.* Beef is the major source of protein in the diet of most U.S. citizens. Beef supplies are currently at record levels and U.S. per capita beef consumption in 1976 totaled nearly 9 pounds above the former record established in 1975. Large increases in beef output during 1975 and 1976 were due largely to unusually high cow and heifer slaughter. During the past 3 years, beef producers have been caught in a severe price-cost squeeze. In response to this extremely unfavorable situation, cattlemen have reduced cow herds, sharply curtailing the nation's production potential for future years.

The U.S. cattle cycle typically encompasses a period of approximately 10 years, which usually includes a period of about 7 years of increasing numbers followed by about 3 years of decline. There is a need to eliminate or at least moderate the recurring 10-year cattle cycle. A more stable beef production pattern would result in less variation in prices to consumers and more consistent returns to producers. Funding from assessments under this Order could be used to provide improved market information at all levels, which could aid the nation's nearly 2 million producers in being more responsive to consumer demand.

During the past 50 years the U.S. cattle herd has more than doubled, but inventory growth has been marked by alternate periods of expansion and liquidation. The number of cattle and calves on U.S. farms and ranches grew from 57 million head in 1928 to a peak of nearly 132 million head on January 1, 1975. Numbers have consistently peaked at about 10-year intervals followed by inventory declines of up to 12 percent in succeeding years. U.S. per capita consumption of beef and veal during the past 50 years has ranged from about 53 pounds in 1932 to 133 pounds during 1976. However, as herds were being rebuilt following periods of inventory liquidation, per capita consumption declined as much as 22 percent from the level attained in an earlier year.

Large fluctuations in production and consumption of beef are caused by large numbers of individual cattle producers responding independently but similarly to price incentives. Cattlemen tend to retain larger numbers of cows and heifers for breeding when calves are selling at profitable levels. This practice tends to restrict concurrent beef supplies while increasing beef output prospects for future years. In the early stages of the expansion phase of the cattle cycle, inventories grow but slaughter supplies remain relatively stable as increased retention of females tends to offset the effect of larger calf crops. Eventually, however, the full impact of a larger breeding herd is reflected in larger slaughter and prices begin to decline. As profits turn to losses, cow and heifer slaughter increases, further boosting beef output. The increased supplies soon put additional pressure on prices and significant losses to producers result. After the cow herd is diminished and calf crops decline, however, smaller beef supplies and higher prices return. With improved profitability, the expansion phase of the cycle begins anew.

Biological factors are a major cause of alternate periods of overproduction and underproduction in the beef industry. Roughly 3 years transpire between the time a producer decides to retain a heifer for replacement and the date the beef from her offspring is purchased by the consumer. Thus, unprofitable price

levels for a sustained period do not result in a reduction in beef output until a few years later. Losses continue until the adjustment can be accomplished.

Changes in cow numbers are a major determinant of future beef supplies; thus cattlemen favor an improved cow-herd size awareness program. Cow numbers increased rapidly during the early 1970's, jumping from 48 million head on January 1, 1969, to a peak of 56.7 million head on January 1, 1975. From January 1, 1972, through January 1, 1975, cow numbers grew at an annual rate of 4 percent, or over 2 million head per year. As usually happens when the rate of expansion exceeds the normal year-to-year increase in demand for beef, which is 1 to 2 percent, excess beef output and unprofitable price levels resulted.

As losses to producers mounted during 1974 and 1975, cow slaughter rates increased dramatically and numbers of heifer replacements entering the herd dropped sharply. Cow slaughter reached a record of almost 12 million head in 1975, nearly doubling the 6 million head killed during 1973. The cow inventory dropped nearly 2 million head during 1975 to 54.8 million on January 1, 1976. With large cow slaughter and reduced heifer replacements continuing during 1976, the cow inventory dropped an additional 2.4 million head to 52.4 million on January 1, 1977.

The downturn in the total cattle inventory during the current cycle is unusually sharp, reflecting the severe financial stress the cattle industry experienced during 1974–1976. On January 1, 1976, cattle numbers totaled 128 million head, down nearly 4 million head from peak levels a year earlier, and by January 1, 1977, the inventory had dropped an additional 5 million head to less than 123 million. With the exception of several months during 1975, the cattle feeding segment of the industry has suffered severe losses, often over $100 per head marketed, since late 1973. Cow-calf producers generally have sold calves and yearlings for less than the cost of production since mid-1974. As a result, many cattlemen have been forced into bankruptcy and those remaining have sharply higher mortgages on their farms and ranches and greatly increased overall debt.

One significant measure of the turnaround experienced by the industry was the drop in inventory value. From January 1, 1974, to January 1, 1975, the average value per head of cattle in the United States dropped 46 percent from $293 to $159, and the value of the total inventory dropped from over $37 billion to only $21 billion.

Cattle producers have repeatedly indicated that they want a self-help program and not Federal monetary assistance. There are no price support programs for cattle or beef to moderate the cyclical ups and downs. A desirable goal of the programs made possible by assessments under the Order is to assist in alleviating the problems which result from the cyclical nature of beef production by providing improved information to aid in making production decisions.

Beef producers have been conducting beef education, information, and promotion programs for a number of years, often relying on either voluntary or mandatory State collection systems. Funding levels in relation to sales value are lower than expenditures for many other raw agricultural products, and are extremely low when compared to expeditures for competing manufactured food products. Twenty-eight beef producing States have organizations which collect funds, primarily for State promotion activities. Some of the money collected at the State level is forwarded to the National Live Stock and Meat Board to be used, along with other voluntary contributions, in national education, information, promotion, and research efforts. But such efforts have been relatively small in size and scope due to funding limitations.

The Order would provide the industry with sufficient funding to carry out a coordinated program of education, promotion, and research for the entire cattle and beef industry. Such a program, operated on a national basis, would minimize duplication of effort among the various State groups and would be far more efficient and effective than previous, fragmented programs.

Numerous areas of research concerning cattle and beef have potential for benefiting both producers and consumers but presently lack funding. There are identifiable research needs for production research, marketing research, product or market research, and foreign market research. Examples of some current research needs are:

Production research. Studies should be designed to speed genetic improvement of the nation's cattle herds and to improve the rate of grain on grass and in the feedlot. Gaining a clearer understanding of protein synthesis would provide a step toward improving the growth process. Increasing the emphasis on finding solutions to animal health problems, such as brucellosis and internal parasites, could lead to reduced death losses and lower production costs.

Marketing research. More efficient beef marketing procedures and techniques would not only benefit producers but would also help consumers obtain quality beef at reasonable prices. Improved efficiency and reductions in the cost of distribution, cost reduction in the labor-intensive processing segment of the industry, and reduced product loss in the distribution chain could be studied to help reach that goal.

Product or market research. There is a need to more accurately identify the quantities and types of cattle and beef products desired by the retail customer. Methods of marketing beef have not kept pace with consumer desires and buying habits and new beef products should be developed to meet changing consumer preferences. With a growing share of meals eaten away from home, appropriate beef products must be developed to meet the needs of this growing market. Studies should be initiated to find beef products and cooking methods consistent with the limited time available for meal preparation. Also, research directed toward developing processing methods to produce more desirable products from the less desirable portions of the carcass is necessary to more efficiently utilize the whole carcass.

Foreign market research. Determining the wants and needs of potential foreign customers for beef and the methods required to fulfill those needs is necessary for effective foreign market development. U.S. exports of beef and veal in recent years have been less than one-half of 1 percent of commercial production while comparable U.S. imports averaged 7 to 8 percent of commercial production. The United States enjoys a competitive advantage over all other nations in the production of large quantities of high-quality beef. With increasing affluence around the world, there is considerable potential for substantial increases in U.S. beef exports if the appropriate market knowledge is developed.

The record reveals a need to communicate factual information to consumers about the nutritional properties of beef. Consumers understand that beef is high in protein, but often do not understand its many other significant contributions to health needs. For instance, there are high iron and B vitamin contents in beef, and the life-saving drug insulin is a beef byproduct. Educational programs could provide information to consumers on many topics concerning beef, with particular attention directed to those issues involving nutrition and health. Nutrition and health information developed for use in elementary schools has been well received. However, funds to reproduce this information and to distribute it to schools have been limited; consequently, only a small percentage of the nation's schools have had access to this information. Similar funding problems have limited the distribution of meat nutrition, purchasing, and cooking information to high school and college classes in nutrition, food, and home economics.

Adoption of a beef research and information order has been endorsed in concept by 81 State and national cattle organizations. The record evidence establishes a need for financing research to find more efficient methods to produce and market a relatively stable supply of beef at fair prices to consumers with reasonable returns to producers. The evidence also shows that research and information funded under the Order will be beneficial to the beef industry and consumers as well. Consumers would benefit from the increased efficiency in production and marketing, a more stable supply of beef, more stable beef prices, and increased nutrition and health information.

A number of exceptions were filed questioning the need for and the value of a beef research and information program. However, it is concluded from the record evidence that the beef industry

needs a research and information program and that the Order, by providing such a program, would effectuate the declared policy of the Act.

2. *Terms and Provisions of the Order.*—(a). *Definitions.* "Act" is defined to provide the correct legal citation for the statute pursuant to which the Order may be put into effect and operated. The inclusion of this definition makes it unnecessary to refer to such law and statutory citation each time reference is made to the Act in the provisions of the Order. "Act" also is defined to include any amendments that may be made to the Beef Research and Information Act (7 U.S.C. 2901 et seq.).

"Fiscal Period" is defined as the 12-month period corresponding with the USDA's fiscal year. The Beef Board is required to submit to the Secretary, for his approval, budgets on a fiscal period basis containing anticipated expenses and disbursements in the various areas expenditures are authorized. The Board's fiscal period is the same as USDA's fiscal year. However, the Beef Board, with the approval of the Secretary, may select some other 12-month period as its fiscal year if necessary.

"Beef Board" or "Board" is defined as the administrative agency or body charged by the Act with the duty to administer the Order. Producer assessments finance the activities authorized and the administrative agency is composed of beef producers, selected by the Secretary from nominations submitted by eligible organizations, associations, general farm organizations, cooperatives, or unaffiliated producers.

The Board shall elect an "Executive Committee" of 7 to 11 Board members who are generally representative of the cattle industry. This Committee has the authority to hire a staff to handle administrative matters, to make policy recommendations to the Board, and to administer the terms of the Order under the direction of the Board and within the policies determined by the Board.

"Producer" is defined in the Order to identify the persons responsible for payment of assessments under the Order. In addition, producers have the right to vote in any referendum on the Order and are eligible to serve on the Board and to nominate others to serve on the Board.

The term "producer" includes any person who owns or acquires ownership of cattle other than one who acquires cattle solely for the purpose of slaughter, except that a person may not qualify as a producer based on sales transactions in which his only share in the proceeds is a sales commission, handling fee, or other fee. However, the period of ownership may be short. For example, a cattle trader or any other person who assumes ownership of cattle, even if the cattle are resold the same day, would qualify as a producer.

The term "producer" does not include a person who acquires cattle solely for the purpose of slaughter. Packers who purchase all their cattle solely for the purpose of slaughter are performing no producer function and do not qualify as producers, even though it is recognized that in normal trade practice such cattle sometimes remain in the feedlot or packer's lot for several days before slaughter. However, a cattle slaughter or packer who has cattle on feed or buys or owns cattle for purposes other than immediate slaughter qualifies as a producer.

"Producer organization" or "eligible organization" is defined to include producer organizations, associations, general farm organizations, and cooperatives representing cattle producers in a geographic area. The final determination of whether an organization is an eligible organization rests with the Secretary of Agriculture.

"Research" is defined to include any type of systematic study or investigation intended to advance the desirability, marketability, production, or quality of cattle, beef, or beef products. It includes market research, production research, and other basic research as well as the evaluation of the relative effectiveness of such studies and investigations.

The Board may enter into contracts, with the approval of the Secretary, for the purpose of carrying out authorized activities. The term "Contracting Party" is defined to include any individual, group of individuals, partnership, corporation, association, cooperative, or other entity, public or private, with which the Beef Board may enter into a contract or agreement in the manner provided in the Order.

"Marketing year" means the calendar year ending on December 31 unless some other consecutive 12-month period is designated by the Board and approved by the Secretary. The calendar year is the appropriate period to be designated the marketing year since most marketing statistics applicable to the Order are maintained on a calendar year basis.

"Part" refers to 7 CFR Part 1260, containing rules, regulations, orders, supplemental orders, amendments, and similar matters concerning the Beef Research and Information Act. The term "subpart" is used when referring to a portion or segment of Part 1260.

b. *Beef Board.* A "Beef Board" is established to act as the administrative body for this Order as specified in Section 8 of the Act. It is composed of producers appointed by the Secretary from nominations submitted either by eligible producer organizations in specified geographic areas or in a direct manner by producers not represented by eligible organizations in such areas. Each member has an alternate to serve in his stead as necessary.

Membership. Members of the Beef Board shall be selected to reflect the varied character of the cattle and beef industry. Cattle are produced in all 50 States, although the concentration varies greatly in different States as does the position of producers in the production chain. Some are engaged primarily in the production of calves from either commercial or purebred herds, while another large section of the industry is involved in feedlot operations. Many producers keep only dairy animals which are used primarily for the production of milk, although such operations also add substantially to the beef supply. There are many combinations of these different functions and related interests in individual production units. There also is a wide range in the size of production units.

The Act specifies that the Beef Board shall consist of not more than 68 members. A Board of this size was constituted so that there may be sufficient representation for all geographic areas and for the multifarious interests of producers. It is intended that the result will be widespread participation of producers in the management of the programs authorized by the Act and the Order.

The stated purpose of the Act is to enable cattle producers, through a Board composed of producers, to establish, finance, and carry out a coordinated program of research, producer and consumer information, and promotion to improve, maintain, and develop markets for cattle, beef, and beef products.

There was testimony recommending that consumers should be included as members of the Beef Board. The legislative history of the Act demonstrates that Congress considered this point extensively. However, the final version of the Act specifies that the Beef Board shall be composed of producers. The conference report indicates that Congress intended for the Beef Board to seek consumer input and it was recommended that the Secretary appoint five consumer representatives to serve in advisory capacities. Record evidence indicates that such a practice would be advisable in order to obtain consumer views on programs of the Board.

A partnership, cooperative, corporation, or similar business entity is to be considered a producer for the purpose of determining who is required to pay assessments and who is eligible to vote in any referendum held pursuant to the Act. However, only individual producers will be nominated and appointed to membership on the Beef Board.

There was testimony proposing that only producers who receive a majority of their income from the production of cattle should be eligible to serve on the Beef Board. Further, it was recommended that elected or appointed local, State, or Federal government officials and executives or officers of organizations which contract with the Beef Board should be prohibited from serving as members of the Board. Rather than outlining such restrictions on Board membership in the Order, producers in selecting nominees and the Secretary in appointing Board members should ascertain that they are active, representative producers.

Term of office. The term of office for Board members and their alternates is 3 years as provided in the Act. Such a period of time is necessary to permit a member to become familiar with the

programs and operations of the Board and to make an effective contribution. Initial appointments shall be, proportionately, for 1, 2, and 3 year terms, giving staggered terms for Board members to prevent the possibility that all terms would expire at the same time and providing continuity of program efforts and program direction. The Secretary shall determine, in a random manner, which initial members shall serve for 1, 2, or 3 year terms, though assuring that the terms of members from a geographic area with multiple representation expire at different times.

No member may serve more than 6 consecutive years on the Beef Board, except that members appointed to the initial Board for terms of 1 or 2 years are eligible to serve 2 additional terms. This provision would serve to utilize the experience acquired and enhance the development of an effective program.

Certification of organizations. Record evidence shows that there are many organizations representing cattle producers throughout the country. The Secretary is charged with the responsibility to set the criteria to be used in determining the eligibility of organizations to nominate members of the Board and has the final authority to make the determination.

Exception was taken to the preceding statement that the Secretary is charged with setting the criteria to determine eligibility. Exceptor asserted that such a statement was not supported by the Act or the record and, further, that Congress set forth the criteria in the Act and that the Secretary has responsibility to determine if organizations meet such criteria. However, the Act mandates that the Secretary certify the eligibility of organizations, based, in addition to other available information, on a factual report from the organization containing information deemed relevant and specified by the Secretary, including but not limited to criteria listed in the Act. To adopt wording which limits the criteria to those listed in the Act as recommended by exceptor would not accurately reflect that responsibility.

Representatives of general farm organizations expressed concern about whether such organizations would be eligible to nominate members to the Board. Further testimony suggested that accurate information necessary to establish the eligibility of general farm organizations to nominate members would not be available, such as the proportion of members producing cattle and the number of cattle they produce. However, other testimony indicates that such organizations normally could provide the data required to meet the needs for certification. It is concluded that general farm organizations should be certified if they meet the criteria established.

Record testimony shows that many of the producer organizations intending to nominate Board members are State organizations, but there also may be some regional organizations participating. A regional organization should be certified to nominate members to the Board in any geographic area in which it meets the established criteria. Similarly, a State organization should be certified to nominate members in a geographic area, even though the area may include other States, if it meets the established criteria.

An organization may file a request for certification to nominate members to the Board at any time. However, the certification of an organization should not be open-ended, since the membership, program objectives, geographic area covered, and other characteristics of an organization may shift. Accordingly, an organization is required to request recertification each time it wishes to nominate a member of the Board.

Nominations. Orderly procedures are established for producer organizations, associations, general farm organizations, cooperatives, and producers not represented by such organizations within a geographic area, as determined by the Secretary, to submit nominations for Board members and alternates to the Secretary. It is essential that the nominations and appointments be completed in a timely fashion, but adequate time must be provided for producers to consider and select their nominees and for the Secretary to make the appointments.

Eligible organizations in each geographic area may caucus to jointly nominate qualified individuals for each member and each alternate member to be appointed to the Board. If they do not caucus or if they fail to agree on nominees, each eligible organization is authorized to submit nominations for each position to be filled. The Secretary also is required to determine whether a substantial number of producers are not members of or their interests are not represented by any eligible organization and, if so, provide a manner for such producers to submit nominations. A 90-day period between approval of the Order in the referendum and the deadline for submitting nominations is necessary to permit the Department to certify eligible organizations and establish procedures by which producers not represented by an organization may submit nominations. This period of time should be sufficient for all certified organizations to caucus, make their selections, and submit their nominations to the Secretary and for producers not represented by such organizations to submit nominations. However, the Secretary may prescribe a longer period if necessary.

After the initial Board has been established, nominations for subsequent appointments of Board members and alternates should be submitted sufficiently in advance to permit the Secretary to select the members, to inform them of their selections, and to obtain acceptance of such appointments before the beginning of the term of office for which they are being appointed. It is necessary to make these subsequent appointments in a timely fashion in order that operations of the Board can continue without interruption when normal changes in membership of the Board occur. Therefore, submission or nominations to the Secretary for subsequent Board members and alternates shall be at least 60 days prior to the expiration of the terms of members and alternates previously appointed to the Board. Other aspects of the nomination procedures for these appointments to the Board are the same as those for nominating members and alternates to the initial Board.

Section 8 of the Act provides that Board members and alternates be named from specified geographic areas designated to reflect, to the extent practicable, the proportion of cattle in each such geographic area. Organizations representing cattle producers normally are organized and operate on a statewide basis, although there also are regional or national organizations, often formed by an affiliation of similar State organizations. Statistics measuring cattle production are available on a State by State basis. Accordingly, to the extent practicable, a State is the geographic area used for determining representation on the Board, with each major cattle producing State entitled to at least one Board member and one alternate. The geographic areas for the initial Board and the number of Board members for each are listed in § 1260.138(e) of the Order.

January 1 inventory numbers of cattle and calves on farms, published annually by the Department of Agriculture, are generally considered the best available measure of the proportion of cattle in the various States. In determining this initial distribution of membership, a geographic area is defined as a State or combination of States with 500,000 head of cattle or more. Each such geographic area is entitled to one Board member and alternate plus an additional member and alternate for each additional 2.5 million head of cattle. Use of this definition accomplishes the objective of providing separate representation on the Board for most States, recognizing the usual boundaries of producer organizations and the similarity of interests of producers within many States.

Representation on the Board by geographic area as published in the Proposed and Recommended Orders was based on the January 1, 1976, inventory of cattle and calves on farms. Record testimony indicated that initial representation on the Board should be based on the latest available inventory data. The January 1, 1977, inventory shows 2.98 million cattle in Montana—down from 3.15 million in 1976. Therefore, based on the criteria specified above and the record evidence, the number of Board members from Montana is reduced from 2 to 1 as shown in § 1260.138(e). Board representation in all other geographic areas is unchanged. The total number of Board members becomes 65.

Important considerations in combining States which have too few cattle to qualify as a geographic area are geographic location and similarity of interests, among other factors. To the extent pos-

sible, a geographic area containing several States includes those which are contiguous and which have similar interests. The practical problems of caucusing and reaching agreement on nominations then are simplified.

California and Hawaii were combined to form a geographic area with two Board members and two alternates in the Proposed Order published and subjected to hearing. Spokesmen for California cattlemen testified at the hearing that California should be designated a geographic area by itself, since under the proposed guidelines the State would be entitled to two Board members without the addition of another State. A representative of Nevada cattlemen testified that it would be acceptable to combine Nevada and Hawaii. In a subsequent brief, the proponents recommended that Hawaii be included with Maryland, Delaware, New Jersey, and the District of Columbia to form a geographic area. A spokesman for Hawaii cattlemen filed a brief with the same recommendation. Such a combination would not follow the principle outlined with respect to geographic location. Accordingly, Hawaii is included with Nevada to form a geographic area rather than with California.

Proponents filed an exception reiterating the position expressed in a brief objecting to the inclusion of Hawaii with Nevada to form a geographic area, asserting that the Hawaii Cattlemen's Association has requested that Hawaii be combined with Maryland, Delaware, New Jersey, and the District of Columbia. Although an attempt has been made to satisfy the desires of cattlemen in States combined to form geographic areas, it is apparent that no perfect solution exists in this instance. As outlined in preceding paragraphs, an important criterion for combining States should be geographic proximity. Other considerations include similarity of interests and similarity in number of cattle produced. Another consideration is the apparent stability of a geographic area, or the likelihood that it may have to be enlarged in the future in order to meet the minimum criteria. Therefore, the original finding to combine Hawaii and Nevada to form a geographic area is not changed.

The record contains a suggestion that each State be assigned one Board member in establishing the initial Board until records are developed on assessments from the various States for use in determining representation. However, it is found that, with the wide differences in cattle numbers among the various States, adoption of such a plan would not provide representation on the Board accurately reflecting the proportion of cattle in each geographic area.

The basis of determining the makeup of the initial Board cannot be permanent. Representation must be reviewed periodically to take into account shifts in cattle production. Accordingly, the Board is required to review the distribution of membership within 5 years of the establishment of the initial Board and subsequently at any time not to exceed 5 years from the date of the last review. Assessments, cash receipts from the sales of cattle, cattle numbers, and other factors which are found feasible to reflect the proportion of cattle in each geographic area may be considered by the Board in determining the need for changes in geographic areas when updating representation on the Board. The Board shall cause regular review to be made of geographic areas and redefine the geographic areas as necessary, subject to the approval of the Secretary. Such changes will be made at the expiration of the terms of members in order to effect the changes in an orderly fashion.

An exception was filed recommending that the wording of § 1260.138(f) of the Order be changed to show the permitted use of information on assessments, cash receipts for cattle, cattle numbers, and other factors to reflect the proportion of cattle in each geographic area in reviewing and updating representation on the Board. Such a change is made to provide a better profile of the cattle industry which will be reflected in representation on the Board.

Appointments. The Order provides that the Secretary will select and appoint Board members and an alternate for each from nominations submitted, providing representation on the Board by geographic area. Written notice of their acceptance of the appointment will be submitted to the Secretary promptly by member and alternate designates.

Vancancies. The nomination and appointment procedures for individuals to fill unexpired terms when vacancies occur are the same as those specified for the normal appointment and reappointment of members and alternates. It is important that vacancies be filled promptly in order to maintain full membership and representation on the Board and a minimum of disruption. Accordingly, nominations to fill vacancies are to be submitted to the Secretary within 60 days of the time the vacancy occurs. Such a period provides a reasonable amount of time for the selection of nominees. However, should a vacancy occur within 6 months of the expiration of the term of a Board member or alternate, the Secretary need not fill the vacancy.

Alternate members. Each Board member has an alternate designated to serve in his place as necessary. On occasion, a Board member may find it necessary to be absent from Board meetings. An alternate member should be available so that the business affairs of the Board will not be impaired. The alternate member will serve at Board meetings in the absence of the member. Also, in the event of a vacancy on the Board for any reason, the alternate will act until a successor is appointed. Alternate members do not automatically serve in place of Board members on committees and other special assignments unless specifically selected to do so by the Board. The Board is not precluded from assigning other duties to alternates in addition to their responsibility to serve in the absence of Board members. The same criteria and procedures are used for nominating and appointing alternates as those for Board members. Alternates also are limited to 6 consecutive years of service as an alternate. However, nothing precludes an alternate from replacing or succeeding a member and that alternate is permitted to serve up to two terms as a Board member, without regard to the length of time served as an alternate.

An exceptor suggested a change in wording in the first sentence of § 1260.141 concerning alternate members. The suggested wording more clearly indicates that an alternate member may serve for a Board member at Board meetings only, unless assigned other duties. The exceptor's suggestion is adopted.

Procedure. The Board should adopt bylaws governing its organization and operation. However, the method of voting in decisions of the Board and quorum requirements are specified in the Order. The presence of a majority of the members and alternates acting for members constitutes a quorum. On any vote taken by the Board, a majority of those present and voting must concur before any action can be taken. All votes cast at an assembled meeting shall be cast in person with no proxy voting permitted.

It is necessary that the Board adopt procedures which will assure that it operates properly and efficiently and it should schedule regular meetings. However, there may be instances when it is necessary to transact routine, noncontroversial business or take rapid action at times when it would be expensive and unnecessary to call an assembled meeting. Therefore, the Board is authorized to vote by telephone, telegraph, or other means of communication in such instances. However, any such vote by telephone shall be confirmed promptly in writing. The Board should have authority to determine when it will be necessary to transact business without calling an assembled meeting.

Compensation. Board members and alternates serve without compensation, but it is appropriate that members and alternates be reimbursed for necessary and reasonable expenses incurred when performing authorized Board business. An exception included a recommendation that Executive Committee members be paid up to $10,000 annually. Exceptor asserted that in this way it would be possible to make the Committee more representative of the entire industry, since it would make it possible for less affluent producers to devote the necessary time to serve on the Committee. The recommendation cannot be adopted, since the Act requires that Board members shall serve without compensation, except that they may be reimbursed for reasonable expenses incurred. The Board, with the approval of the Secretary, shall set standard procedures governing reimbursement, including the forms to be used, receipts or other documentation re-

quired, and the limits of reasonable expenses.

Powers. The Board must have the powers specified in Section 8 of the Act in order to effectively provide administrative direction of the program. The Board has the power to administer all terms and provisions of the Order and carry out the plans and programs authorized by the Act. The Board is empowered to develop rules and regulations necessary for implementing and operating the program and submit them to the Secretary for approval and issuance. Such rules and regulations are necessary to set the procedures under which the Board exercises its responsibilities. They govern the method of collecting assessments, the refund procedures, the actions to be taken to implement specific programs, the records that must be kept by slaughterers and others, and the related provisions necessary to meet the requirements of the Order.

Violations of the rules and regulations issued pursuant to the Order may occur and the Board has the power to investigate alleged violations. Procedures established for handling such violations should assure fair and equitable treatment in all instances. The Board should take all reasonable steps to settle violations and in the event that settlement cannot be reached, report violations to the Secretary for appropriate action.

Problems may arise or conditions may change within the industry that would necessitate amendments to the Order. The Board should maintain regular surveillance of the need for amendments and has the power to recommend amendments of the Order to the Secretary when it deems that such action is necessary.

Duties. The duties of the Board as set forth in the Order are necessary for the discharge of its responsibilities. The stated duties provide authority and guidance concerning many details common to the operation of an administrative entity such as the Board. They include the duty to meet and organize, elect officers, and establish committees and subcommittees of Board members as necessary to handle the affairs of the Board. Bylaws should be adopted governing the conduct of business by the Board. The Board also has authority to appoint advisory committees, which would include persons who are not members of the Board, in order to gain added expert advice and counsel on problems, procedures, and programs. Such committees can act in an advisory position only; final decisions and actions are reserved to the Board, and only the Board may take action authorizing the expenditure of funds. The Board has the authority to reimburse advisory committee members for travel and other expenses arising from their assignments.

The Act provides that the Beef Board shall appoint from its members an Executive Committee of not less than 7 nor more than 11 members. In view of the authorized maximum size of the Beef Board, 68 members, an Executive Committee is necessary to provide more efficient and effective administration of the programs. The Beef Board shall delegate to the Executive Committee authority to employ staff members and to administer the provisions of the Order under the direction of the Board and within policies established by the Board. The Board should establish and maintain an effective managerial team composed of the Executive Committee and the administrative staff of the Board.

Exception was taken to wording in the Recommended Decision showing that the Board shall delegate to the Executive Committee authority to employ staff members and specify their duties and compensation. Exceptor pointed out that the record does not mention specifying the duties and compensation of staff members. Neither does the Order contain such a reference, and it is deleted from these findings and conclusions. A related exception objected to the wording in § 1260.146(b) providing for the delegation of authority to the Executive Committee to administer the terms and provisions of this subpart under the direction of the Beef Board and within the policies determined by the Board. It was recommended that language similar to that found in the Act, which refers to authority of the Executive Committee to conduct routine business within the policies determined by the Beef Board be used. However, the record contains testimony noting that the Executive Committee should meet more frequently and be much more closely involved in details of day-to-day operations than the entire Board. Therefore, the wording in the Recommended Order requiring delegation of such authority to the Executive Committee is necessary.

A major duty of the Board is the development of plans and programs to implement the Order. Since the level of anticipated funding is relatively large for programs of this nature and should provide for a comprehensive program, the Board has authority to initiate contracts or agreements with other organizations to conduct program activities. Contractors are required to provide plans for each project or program, outline procedures to be followed, and submit a detailed estimate of the costs. Further, contractors are required to keep adequate records and submit regular reports of their activities on a project showing progress made, disbursement of funds, and any other relevant information required by the Board or the Secretary. Contracts and agreements of the Board become effective upon approval of the Secretary. In addition to contracting with others, the Board has authority to conduct program activities on its own if such an approach can be shown to be more effective or efficient in furthering the purposes of the Act and Order.

An exception was filed which objected to the inclusion of a sentence in the Recommended Decision which showed that contracts and agreements may become effective only upon approval of the Secretary. It was argued that the phrase "only upon approval of the Secretary" does not appear in the Act and concern was expressed that it unnecessarily called attention to the role of the Secretary. However, the Act specifically provides that plans, projects, contracts, and agreements shall become effective upon approval of the Secretary. Further, the Act requires that such a provision be included in the Order. Therefore, the recommended deletion of the sentence is denied, although the wording is changed to reflect the wording of the Act.

The Board shall prepare a budget of its anticipated income and expenses each fiscal period and submit it to the Secretary for approval. The Secretary should specify the date for submission of the budget for his approval, allowing adequate time for review prior to the beginning of the fiscal period. In addition to income and expenses, the budget statement should show program plans, the distribution of anticipated expenses for each major program category, the estimated cost for administration, and justification of the plans. The Board is required to submit copies of the budget to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry.

An exception was taken to a reference in the Recommended Decision that justification of plans covered in the budget should be included when it is submitted for approval. A related exception recommended changes to the reference in § 1260.146(d) of the Order requiring estimated costs of each plan or project to be shown in the budget. The recommended changes are denied because it is necessary that the Secretary be informed of the estimated costs of each plan comprising the budget in order to review and approve it.

Other duties of the Board which are outlined in the Order are those necessary to assure that it operates in a businesslike fashion. They involve requirements for maintaining records and submitting reports of activities as required by the Secretary, making annual reports of activities to producers and the public, accounting for funds received and expended each fiscal period, and initiating an annual audit of its financial status by an outside party. Further, the Board is required to give the Secretary the same notice of meetings as is given Board members and to provide any other information pertaining to the Order which the Secretary requests.

c. *Programs and Projects.* The Board has the authority to determine the type of research, market development, education, producer information, consumer information, promotion, and advertising projects to be undertaken, and it is charged with the responsibility of developing and submitting to the Secretary for approval, such plans and projects as are authorized by the Act. The projects and programs should be designed to assist, improve, or promote the production, sale, marketing, processing, distribution, and utilization of cattle, beef, and beef products. The authority is broad and flexible in order to enable the Board to use the most efficient and effective methods of carrying out the purposes of the Act. Emphasis

should be placed on developing a coordinated national program, with activities designed to complement the efforts of groups, organizations, or agencies which are currently engaged in research and promotion activities.

The Board has the authority to develop programs designed to expand sales in foreign markets for cattle, beef, and beef products. This area of activity should include steps to increase sales to present overseas customers as well as to develop new outlets and tailor products to their needs. Cooperative efforts with existing programs of this nature conducted by Federal and State governments and private interests may prove to be an effective approach.

An exceptor recommended deletion of statements in the Recommended Decision concerning the Board recommending to the Secretary the establishment of projects. As justification, exceptor asserted that "from inception, this program was conceived as a producer program" and argued that to require the Board to recommend to the Secretary the establishment of projects is contrary to the intent of Congress. However, Section 8 of the Act clearly requires the Board to submit plans, projects, budgets, contracts, and agreements to the Secretary for approval, and there was record evidence supporting the principle that the Board would submit for approval only those actions which it recommended. Therefore, an explanation of the requirement is retained in the conclusion, although it is changed so as to reflect the record and the language of the Act.

Programs or projects conducted by the Board shall be periodically reviewed to determine if each such plan or project contributes to an effective and coordinated program of research, information, education, and promotion. Upon such review, the Board shall terminate any program or project which it determines does not further the purposes of the Act.

The provision of the Order and Act that no advertising or promotion shall make any reference to private brand names of cattle, beef, or beef products is necessary to avoid discrimination. The Board represents all interests in the industry and therefore must be fair to all segments and elements of the cattle industry. Prohibition of the use of false or unwarranted claims in behalf of cattle, beef, or beef products or false or unwarranted statements with respect to the attributes or uses of competing products is also necessary for proper administration of the Order.

An ample and stable supply of beef for consumers is clearly in the public interest. Maintenance and expansion of existing markets and the development of new markets, both at home and abroad, are essential if the cattle industry is to be healthy enough to supply the needs of consumers. Therefore, the Order provides the necessary authorizations for research and information designed to accomplish this objective. It enables the Board to undertake production research, marketing research, product or market research, and other research designed to improve efficiency throughout the production and marketing chain from the earliest stages of production up to the time the product reaches the consumer. In addition, information derived from research and other factual information would be made available to both producers and consumers.

The Board may either perform research or information work within its own organization, or it may contract for such research, market development, education, producer information, consumer information, promotion, and advertising projects and programs with public and private research and development agencies which are capable of performing the work needed. It is recognized that study and planning may be involved in the development of projects and programs. Therefore, funds to cover the reasonable expenses which may be incurred by the Board in connection with such development should be included in the annual budget. An exceptor objected to the preceding statements that funds to be used for planning and developing programs and projects should be shown as part of the annual budget. The wording is changed but the statement is not deleted as recommended because there is need for the Board to consider funds needed for planning purposes in preparing the budget.

d. *State Beef Councils.* The effectiveness of a new national program of research and information activities for cattle and beef will depend, in part, on its relationship to existing programs operating in several States. The stated purpose of the Act is to enable the development of an effective and continuous program of research, consumer information, producer information, and promotion designed to strengthen the cattle and beef industry's position in the marketplace and maintain and expand domestic and foreign markets and uses for United States beef. Further, Section 16 of the Act states that nothing in the Act shall be construed to preempt or interfere with the workings of any beef board, beef council, or other beef promotion entity organized and operating within and by authority of any of the several States. Record evidence shows that 28 States have programs similar to the national program which would be established by an Order under the Beef Research and Information Act. Also, there is a national effort of this nature, currently operating on a voluntary basis, conducted by industry interests through the National Live Stock and Meat Board. A portion of the funds collected in connection with several of the State programs presently is being forwarded to the National Live Stock and Meat Board.

State programs differ widely in several characteristics, but especially with respect to the basis for the assessments, the assessment rate, the method of collection, the mandate under which the State program operates, the availability of refunds, and the composition of the administrative body of the program. Testimony received at the hearing indicates that the anticipated effect of the initiation of a new national program on existing State programs varies widely. Representatives of some State programs indicated that they expected their local effort to continue with little change. Others indicated that their program would be likely to either diminish considerably or end because producers would not be willing to pay an increased assessment necessary to operate both State and national programs. Such testimony indicates that a new national program under the Beef Research and Information Act may interfere with the operation of some State programs in such instances. There is abundant evidence throughout the record that it may be desirable to keep viable State programs active in a coordinated, cooperative effort as part of a new national program in order to achieve maximum overall effectiveness of the effort. Such an approach would provide continuity available from ongoing State programs, minimize duplication of effort, and assure that the total effort was directed toward common goals. Spokesmen familiar with existing State programs pointed out the need for local contacts in order to have effective educational activities, particularly those conducted through the schools. Feedback from producers through cooperating State programs also might help achieve a successful national program. Some State representatives felt that there should be no overlap between current State programs and a new national program. They felt that assessments for State programs should be phased out and that such programs should continue to operate only as a part of the national effort. In essence, such an approach could result in using the State organization only as an administrative entity of the national program without the State organization conducting any local program activities. The Board should continually analyze the results of cooperative relationships with the various State programs and select the most effective approach in each case.

Record evidence supports permitting the Beef Board to allocate up to 10 percent of the net assessments paid by producers in a State for return to the qualifying State beef board, beef council, or other beef promotion entity. Although current programs in some States are funded at a higher level and some at a lower level than such funds would provide, all State programs would be accorded equal treatment by making up to 10 percent of the funds generated in the State for the national program available for use in the State. Such a provision helps assure the continuation of State programs by providing funds, upon the proper showing of program need and objectives.

Many producers testified that the Order should guarantee that at least 10 percent of the assessments from a State

would be returned to help fund its State beef council, if requested. However, such a provision would be an undue restriction on the Board in that needs for funds may change over the years in many States and other States may demonstrate acceptable plans for less than the 10 percent level of funding. Still other States may decide that the national program better serves their purposes. Further, the Order contains a provision that allows State promotion entities to be eligible to be awarded contracts by the Board for program activities. These funds would be in addition to any funds returned to the States from the allocation of up to 10 percent of net assessments. Thus, a State promotion board, upon demonstration of need and an acceptable program, could receive further funding.

The Board is given flexibility with respect to the use of funds, including those which may be made available to support State programs, in order to achieve maximum effectiveness of the total national program. Testimony at the hearing indicates that assessments in some State programs would diminish rapidly and that funds from the national program would be needed in many States soon after the national program began. Accordingly, the Board may enter into agreements allocating funds to State programs as soon as possible during the first year on the basis of estimated net assessments in the State.

An exceptor recommended deletion of the phrase "during the next fiscal year" from § 1260.156 of the Recommended Order in connection with the distribution of funds to State organizations. Exceptor also asserted that a proviso which was added at the hearing to permit allocating funds for distribution to States as early as possible during the first year would be unnecessary. On review of the record, it is concluded that the wording in the Recommended Order is necessary to provide authority for early funding of States during the first year, for which need was established in the record.

The amount of funds available for return to a qualifying State organization is based on net assessments contributed to the program by producers in that State. Refunds made to producers in the State would be subtracted from the estimated total assessments paid by producers in the State to compute net assessments. Accurate records of assessments on a State-by-State basis will be difficult or impractical to compile, since under the value-added concept the assessments remitted to the Board at the time cattle are slaughtered may also include assessments paid by several previous owners. The record includes considerable testimony showing that many cattle change ownership several times during their lifetime and often move from State to State. Extensive recordkeeping would be necessary to accurately credit the assessments paid by producers in each State. Data on the cash receipts from the sale of cattle by producers in each State, published by the U.S. Department of Agriculture, may provide the best available estimate of total assessments obtained from each State. It was also suggested in testimony that the number of cattle fed in a State and the size of the basic cow herd should be considered to help determine net assessments. Finally, testimony was presented proposing that the Order explicitly show the manner in which net assessments for a State would be computed. However, it is preferable for the Board to spell out such procedures in the rules which it adopts, thereby maintaining the option of seeking improvements, from time to time, in the basis for accurately reflecting the net assessments paid by producers in each State.

To qualify to receive funds from assessments collected by the Board, a State beef board, beef council, or other beef promotion entity must demonstrate ability to provide research, information, education, or promotion consistent with the purposes of the Order. The State entity should have goals and purposes complementary to the goals and purposes of the Act and the Order, and must submit budgets and plans for research, information, education, or promotion programs for which the funds will be used and also submit reports to the Board on use of the funds. An eligible State organization should be organized under legislative authority in the State or by State charter. If more than one State entity requests funds, the one most qualified to fulfill the purposes of the Act and the Order will be selected by the Beef Board, subject to the approval of the Secretary.

Record evidence shows considerable concern that the use of funds returned to States would be unduly controlled by the Board and the Secretary. It was suggested that an organization should be able to qualify merely by demonstrating that it has goals complementary to those of the Order rather than be required to submit specific plans and programs for which the funds would be used and to report how the funds were used. However, the requirements should be the same as for other contractors and are not meant to result in submission of State entities to undue controls. Rather, they are necessary to assure that the Board and the Secretary exercise their responsibilities under the Act.

An exception was filed which disagreed with the finding that a State organization must meet the same requirements as other contractors to qualify to receive funds collected by the Board. Exceptor asserted that greater flexibility was necessary in returning a portion of funds collected to the various States and that requiring budgets, plans, and reports from State organizations would interfere with the workings of such organizations, which was alleged to be contrary to the Act and the intent of Congress. However, the Act does not elevate State beef promotion organizations to preferred contractor status. In fact, it provides no authority for the Board to distribute funds to States except through contracts. The reference in the legislative history to returning 10 percent of the funds to States clearly shows the intent that State organizations meet the same requirements as other contractors in order to qualify for such funds. Therefore, the recommended changes in the findings and conclusions and the Order are denied.

e. *Assessments, Refunds, Expenses.* The Act provides that funding for activities under this Order shall be acquired from assessments levied on producers of cattle, which will be collected from producers by producer-buyers and slaughterers, and that the slaughterers shall remit the assessments to the Board. Assessments levied on producers are based on the commercial value of cattle at the time of sale, normally the sale price. In order for each producer to pay his fair share of the assessment on cattle owned by two or more producers, a value-added procedure is employed.

An exceptor suggested that the funding of the beef research and information program should be strictly voluntary rather than requiring assessments on all transfers of cattle, with refunds permitted. Since the Act requires the collection of assessments and the refund of assessments upon request, the suggestion cannot be implemented.

The rate of assessment will be established by the Board, subject to the approval of the Secretary. Such rate of assessment may not exceed the statutory maximum of one-half of 1 percent of the value of the cattle sold. Section 1260.162 of the Order specifies that assessments may not exceed three-tenths of 1 percent of the value of cattle sold during the first 3 years that assessments are collected. A rate of three-tenths of 1 percent of the value of cattle sold should provide sufficient funds to carry out the policy and purposes of the Act at this time while not creating an undue burden on producers. Some producer testimony recommended a one-tenth of 1 percent assessment rate for the first year or more, or a plan whereby the rate would be increased periodically in the early years of the program. Reasons given for this position included: (1) Some producers, especially feeders, would pay a relatively larger share of the assessments since they would have to pay the total assessment on cattle they owned at the time the program began, even though they owned the cattle only a short time; (2) time is required to develop the administrative details of a new program and initiate projects to effectively use the funds; and (3) a lower initial rate would help reduce any disruption of existing State programs caused by the beginning of a new national program. However, the bulk of the testimony supported the assessment rate shown in the Order. Further, under the Order, the Board has flexibility to set the assessment rate at less than three-tenths of 1 percent if it finds that conditions warrant a lesser rate.

The cattle industry includes numerous classes of producers, such as dairy cattle producers, purebred or breeding stock producers, cow-calf producers, stocker-growers, traders, and cattle feeders. Each represents a segment of the industry or a stage in the production process. Most cattle slaughtered are owned by two or

more producers prior to slaughter and some change hands several times.

The evidence indicates that for all producers to pay their fair share of assessments, a value-added concept should be employed—that is, each producer should pay an assessment based on the increase in value of cattle under his ownership. The value-added concept operates as follows:

Assuming an assessment rate of three-tenths of 1 percent of the sales price, a cow-calf man who sells a calf to a stocker-grower for $100 would be assessed three-tenths of 1 percent of the sales price or $0.30. The cow-calf man could pay the stocker-grower $0.30 or the stocker-grower could deduct $0.30 from the $100 sales price and pay the cow-calf man $99.70 rather than $100. In either case, the cow-calf man would have paid an assessment based on the value added to the animal during his ownership. If the stocker-grower sold the animal to a feeder for $200, he would either pay the feeder three-tenths of 1 percent of the sales price ($0.60) or the feeder would deduct $0.60 from the $200 sales price and pay the stocker-grower only $199.40. In either instance, the $0.60 assessment would include $0.30 from the $100 increase in value during the cow-calf man's period of ownership and $0.30 from the $100 increase in value during the stocker-grower's period of ownership. If the feeder later sells the animal to a slaughterer for $400, the slaughterer would collect from the feeder, or deduct from his $400 check, three-tenths of 1 percent of the sales value of $1.20. The slaughterer would forward the $1.20 to the Beef Board. Each of the producers would have contributed his fair share based on the value added during his ownership—$0.30 each from the cow-calf man and the stocker-grower and $0.60 from the feeder.

If no sales transaction occurs at the point of slaughter or other transfer, a fair commercial market value shall be attributed to the cattle for purposes of determining the assessment. For example, packer-owned cattle from feedlots will be assessed at the point of slaughter based on market prices of similar cattle. Cattle traded for other cattle or for merchandise also would be assessed on commercial market value. Similarly, cattle custom slaughtered for home consumption would be assigned a fair commercial market value for assessment purposes. However, cattle slaughtered for an individual's own home consumption are exempt from the assessment if the individual has owned the animal from birth to slaughter.

Most cattle increase in value rather consistently from birth to slaughter. Thus, under the value-added system of assessments, the final assessment remitted to the Beef Board by the slaughterer will exceed any previous assessment for the bulk of all cattle slaughtered. However, if the value of cattle involved in a sales transaction declines during a person's period of ownership, the total assessment paid by previous producers will not be passed on in the normal manner. A decline in value could be due to factors such as death loss, weight loss, or decline in market price. Detailed procedures for the collection of assessments due the Board but not passed along in the normal manner under such circumstances should be provided in the rules and regulations of the Board.

Further, since many cattle kept for breeding and milk production achieve a value for these purposes which is higher than their slaughter value, the Order specifies that the Beef Board shall provide for an adjustment in the value of these cattle for assessment purposes so as not to exceed their value in the commercial slaughter market chain, or the Board shall exempt collection of the assessment on such cattle until time of slaughter.

Exceptions were taken to the wording of paragraph (a)(5) of § 1260.162 of the Order concerning the assessment value of breeding cattle. As a result, the wording is changed to show that the Beef Board shall provide for the adjustment of the value of breeding cattle, including those used in milk production, so as not to exceed their commercial market value for beef, or it shall exempt collection of the assessment on such cattle until time of slaughter. Commercial market value for beef as used herein refers to the market value of similar cattle in the commercial slaughter market chain, normally as either feeder or slaughter animals, depending on market conditions. The changes in wording clarify the Order and reduce the possibility that commercial market value could be interpreted to mean commercial market value for breeding or for dairy purposes. Exceptors also proposed deleting any specific mention of dairy cattle in this provision. However, the hearing evidence indicated a need to make clear that all cattle, including cattle kept for milk production, are subject to assessment, and the proposed deletion is not accepted.

While not specifically defined, the meaning of the term "commercial market value" has been clarified above and in the Order. The term "breeding cattle," based on evidence presented at the hearing, should include all cattle kept for breeding, including those kept for milk production purposes. However, no concise definition for breeding cattle or for classes of breeding cattle is included in the Order. This will allow the Board the necessary flexibility in establishing rules and regulations to effectively carry out the assessment provisions of the Order.

An exceptor recommended that provisions for collection of assessments from the production of registered cattle producers should be made through breed headquarters at the time of transfer and that assessments should be made on the full value of registered cattle sold, asserting that these producers would likely profit more from research and promotion than the commercial producer. The majority of the hearing testimony called for adjusting sales value of breeding animals to commercial market value for assessment purposes; there was no testimony favoring assessments on the full sales value of registered cattle. Collection and remittance of an assessment on the full value for each transaction prior to the final sale for slaughter would not follow the value-added concept used for all other classes of cattle. Adopting the recommendation also would require two separate systems for assessing breeding and dairy cattle—one for purebred cattle registered by breed associations and another for the many breeding and dairy cattle which are not registered. Further, the Act provides only for remittance of assessments by slaughterers or collection from producer-buyers. Thus, the recommendation is rejected.

Some hearing evidence indicated that purebred cattle and cattle kept for dairy purposes should be exempt from assessment until slaughter. The exemption of such cattle until slaughter would reduce administrative problems, it was argued. However, testimony from producers of purebred and dairy cattle indicated that they wished to pay their fair share of assessments levied on the industry. In addition, proponents testified that determination by the buyer and seller of the commercial market value of breeding cattle would not be difficult. To maintain the flexibility necessary under the Order, the Beef Board will determine and specify in the regulations of the Board whether assessments on breeding cattle, including cattle kept for milk production, will be based on the estimated commercial value or whether such cattle will be exempt until slaughter. If assessments are based on estimated commercial value and difficulties arise, the Beef Board may amend the regulations and exempt breeding and dairy cattle from assessment until slaughter.

Slaughterers will be required to remit assessments to the Board, including assessments due at time of slaughter on cattle of their own production, in accordance with regulations developed by the Board. Assessments due on cattle slaughtered must be paid to the Board regardless of whether the assessment has been collected from the producer. Similarly, throughout the production chain, collection or deduction of assessments with transfer of ownership will be self-enforcing, since a producer-buyer who fails to collect the assessment on a transaction will be obligated to pay, as a producer-seller, an assessment based on the total commercial value of the transaction rather than only the assessment based on the value added during his ownership. In all transactions in which a slaughterer or producer-buyer has collected or deducted an assessment from a producer, the producer-seller should be entitled to receive evidence of the amount deducted or collected.

An exceptor suggested that original owners of cattle sold should be required to report to the Beef Board. The suggested change is not incorporated in the Order since a need for such reports has not been established.

The Beef Board is authorized to set aside funds in an operating reserve and

to budget for such a reserve. It would be impractical to operate without a reasonable reserve. Research opportunities, the need for increased promotion, and other opportunities may develop suddenly. Without available funds it would not be possible to take advantage of such opportunities and to fulfill such needs, and a reserve fund is necessary for such purposes. The amount of the reserve fund will be determined by the Board with the approval of the Secretary. However, the reserve fund should not exceed approximately the average yearly collections of the Board.

Review of the Act shows that a provision for the Secretary to initiate a suit against any person subject to the Order for the collection of any assessment due is a required term of the Order. Such a provision is added in § 1260.162 of the Order.

Refunds. There is a provision in the Order for the refund of assessments to producer-sellers who request them. Any producer against whose cattle any assessment is made and collected from him—and who is not in favor of supporting the programs—shall have the right to receive a refund of such assessment from the Beef Board. However, no producer may receive a refund of the portion of the assessement which he collected from other producers. Regulations will be issued controlling the method of obtaining a refund, including a requirement of proof that the producer-seller paid the assessment for which the refund is claimed. A refund request must be submitted within 60 days after the end of the month in which the transaction occurred.

The Act and the Order provide that the refund be made by the Board within 60 days after the submission of proof satisfactory to the Board that the producer-seller paid the assessment for which refund is sought, but no producer shall claim or receive a refund of any portion of an assessment which he collected from other producers. The refund provision is essential to the voluntary concept of the Order, in that no producer is forced to financially support the Order if he does not favor it. The Board should make refund forms available to producers and each producer who asks for a refund must individually request it, i.e., he must submit the refund request. Marketing agencies, cooperatives, brokers, or others shall not be allowed to request refunds on behalf of producers. Slaughterers shall not be entitled to refunds even if they submit funds to the Board in the amount of a producer's assessment without collecting the assessment from the producer. But a slaughterer who is also a producer and has paid the assessment as a producer is entitled to request and receive a refund.

Expenses. Board expenses shall be paid from assessments received and any other funds which accrue to the Board. The Board may incur expenses which are found by the Secretary to be reasonable for the functioning and maintenance of the Board and necessary for the Board to exercise its powers and duties.

The Act and its legislative history make it clear that the expenses of the Board will include reimbursement to the Secretary for such expenses excluding salaries, as the Secretary determines were incurred by the Government in preparation of an original order and for the conduct of the referendum. In a brief, the opinion was expressed that the Secretary should be reimbursed for the conduct of the referendum but not for expenses incurred in preparation of an original order. However, the conference report of April 15, 1976, (House of Representatives Report No. 94–1044), clearly lists a number of costs for which the Secretary is to be reimbursed which are necessary costs in the preparation of an original order. It is therefore found that such costs must be reimbursed.

The Act also requires that, after the Order becomes effective, all administrative costs, including salaries, which the Secretary determines were incurred by the Government under the Order shall be reimbursed by the Beef Board. In a brief, the opinion was expressed that Government salaries should not be reimbursed by the Beef Board. However, the legislation is clear that administrative costs of the Government are to be reimbursed. Therefore, it is found that the Secretary shall be reimbursed for all costs, including salaries, that he determines are incurred by the Government under the Order.

An exceptor questioned wording in § 1260.161(c) of the Recommended Order concerning the right of the Secretary to determine the level of costs incurred by the Government with respect to the beef research and information program. However, Section 8(e)(2) of the Act provides that the Beef Board shall pay for the administrative costs of the Secretary as determined by the Secretary. Therefore, the wording of § 1260.161(c) is not changed.

f. *Records and Reports.* The Act imposes requirements on slaughterers to keep records and make such reports as necessary for the effectuation, administration and enforcement of the Act and the Order or regulations issued pursuant to it. The Board has authority, with approval of the Secretary, to establish regulations requiring slaughterers to keep necessary book and records and to report to the Board periodically as the Board determines is necessary. Details on the information needed in records and reports and the frequency and timing of reports are to be established by the Board and shown in the regulations. Record evidence shows some concern that unduly burdensome requirements may be imposed on slaughterers. It was suggested that existing records systems of the industry should be utilized to the extent possible, and the Board should be cognizant of this recommendation when formulating regulations for approval by the Secretary.

An exceptor suggested an addition to the Order in § 1260.171 to read "The Board shall take all steps necessary to insure that all assessments due, including assessments due from a slaughterer for slaughter of cattle of his own production have been paid." However, the Order authorizes the establishment of regulations, including those designed to insure that slaughterers remit all assessments to the Beef Board. The proposed addition is unnecessary and is denied.

All books and records required under the regulations must be made available by slaughterers for inspection by representatives of the Board or the Secretary as necessary to verify reports on assessments made and forwarded to the Board. These records are to be retained at least 2 years beyond the marketing year of their applicability. Such a time period is necessary to permit the completion of authorized audits, investigations, or other actions that may be necessary in administering and enforcing the provisions of the Order and the Act.

Representatives of the Board or the Secretary, while acting in their official capacities, on occasion are likely to have access to records and accounts of slaughterers, producers, and others which may reveal trade secrets. The Act requires that the confidential nature of such business records be protected. Therefore, the Order provides that information obtained from books, records, and reports required of slaughterers, and information about refunds made to producers, shall be kept confidential by employees of the Board and of the Department of Agriculture. Also, any such information which becomes available to contracting parties should be kept confidential by officers and employees of such parties. However, the Secretary retains the authority to permit disclosure of such information, but only in a suit or administrative hearing relevant to the Order brought at the direction, or upon the request, of the Secretary of Agriculture, or to which any officer of the United States is a party.

It should be recognized that some information about the program may be of interest and benefit to the general public. Accordingly, the Order does not prohibit (1) the issuance of general statements concerning the number of persons subject to the Order or statistical data collected which do not identify the information furnished by any person; (2) the publication, as approved by the Secretary, of general statements relating to refunds made by the Beef Board which do not identify any person to whom a refund is made; or (3) the publication by direction of the Secretary of the name of any person violating the Order, together with a statement of the provisions of the Order violated.

An exceptor suggested that § 1260.173 be changed to permit release of a specific statistic, namely, slaughter numbers by sex. The suggested change would outline specific permission to release data which might be collected for dissemination in educational or informational programs developed by the Beef Board. Detailed provisions concerning the confidentiality

of the varied information of this nature obtained by the Board are unnecessary, and the suggested change is not adopted.

g. *Other Terms and Conditions.* Record evidence shows concern that patents, copyrights, inventions, and publications developed through the use of funds collected under the Order should be the property of the Beef Board to use for the benefit of the entire cattle industry. In a brief, proponents suggested that a section be added to the Order to outline such a provision. Accordingly, such a section is included in the Order as shown in § 1260.181. It provides that any patents, copyrights, inventions, or publications developed through the use of funds collected under the Order shall be the property of the Beef Board and any benefits or income from the use of such patents, copyrights, inventions, or publications shall inure to the benefit of the cattle industry. In the event of termination of the Order, control of such holdings and other assets would revert to the Secretary to be used for the benefit of the industry as specified in the Order.

The record shows a need for several other miscellaneous terms and conditions as shown in §§ 1260.182 through 1260.187 of the Order. Each section sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the Order. These provisions are incidental to, and not inconsistent with, the terms and conditions of the Act, are necessary to effectuate the other provisions of the Order, and are supported by the record evidence.

Rulings on Briefs, Proposed Findings, and Conclusions

At the close of the hearing, the Administrative Law Judge fixed November 15, 1976, as the final date for interested parties to file briefs, proposed findings, and conclusions based on the evidence received at the hearing. Eight briefs were filed on behalf of the following parties: Ed Grady, Manager, Information Division, Minnesota Farm Bureau Federation, St. Paul, Minnesota; Jack Russ, Director, California Cattlemen's Association, Sacramento, California; J. F. Goold, Executive Vice-President, League of California Milk Producers, Sacramento, California; James K. Kreutz, Attorney, Beef Development Taskforce, Denver, Colorado; Stephen F. Krut, Assistant Executive Director, National Association of Meat Processors, Elizabethtown, Pennsylvania; B. H. Jones, Executive Vice-President, National Livestock Feeders Association, Omaha, Nebraska; J. Gordon Cran, President, Hawaii Cattlemen's Council, Inc., Honolulu, Hawaii; and John Lewis, Director, California Farm Bureau Federation, Berkeley, California.

Several of the briefs reiterated points made by witnesses at the hearing or were copies of statements presented at the hearing. The points in each of the briefs were carefully considered along with the record evidence received at the hearing in making the findings and conclusions set forth herein as discussed in this decision. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions as set forth herein, requests to make such findings or reach such conclusions are denied for the reasons previously cited in this decision.

General Findings

On the basis of the evidence presented at the hearing and the record thereof, it is found that:

1. The Beef Research and Information Order and all of the terms and conditions thereof as hereinafter set forth will tend to effectuate the declared policy of the Act; and

2. The following terms and conditions of the Order are a detailed means of carrying out the declared policy of the Act with respect to the development of effective and continuous coordinated programs of research, consumer information, producer information, and promotion for cattle, beef, and beef products with adequate financing through assessments on the sales of cattle.

Rulings on Exceptions

In arriving at the findings and conclusions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Beef Research and Information Order

It is concluded that the detailed and appropriate means of effectuating the foregoing conclusions is the Beef Research and Information Order which follows. However, this Order shall not become effective unless approved in a producer referendum as provided in Section 9 of the Act and in § 1260.17 of the Rules of Practice and Procedure Governing Proceedings to Formulate an Order (7 CFR 1260).

A new subpart is added to Part 1260 of Title 7 of the Code of Federal Regulations as follows:

PART 1260—BEEF RESEARCH AND INFORMATION

Subpart—Beef Research and Information Order

DEFINITIONS

Sec.
1260.101 Secretary.
1260.102 Act.
1260.103 Person.
1260.104 Cattle.
1260.105 Beef.
1260.106 Beef products.
1260.107 Fiscal period.
1260.108 Beef Board or Board.
1260.109 Executive Committee.
1260.110 Producer.
1260.111 Producer-buyer.
1260.112 Producer-seller.
1260.113 Slaughterer.
1260.114 United States.
1260.115 Marketing.
1260.116 Commerce
1260.117 Producer organization or eligible organization.
1260.118 Producer information.
1260.119 Consumer information.
1260.120 Promotion.
1260.121 Research.
1260.122 Transactions.
1260.123 Contracting party.
1260.124 Marketing year.
1260.125 Part and subpart.

BEEF BOARD

1260.136 Establishment and membership.
1260.137 Term of office.
1260.138 Nominations.
1260.139 Appointments.
1260.140 Acceptance.
1260.141 Vacancies.
1260.142 Alternate members.
1260.143 Procedure.
1260.144 Compensation and reimbursement.
1260.145 Powers of the Board.
1260.146 Duties of the Board.

RESEARCH, INFORMATION, EDUCATION, AND PROMOTION

1260.151 Research, information, education, and promotion.

STATE BEEF COUNCILS

1260.156 Continuity.
1260.157 Qualifications.

EXPENSES AND ASSESSMENTS

1260.161 Expenses.
1260.162 Assessments.
1260.163 Producer refunds.
1260.164 Influencing governmental action.

REPORTS, BOOKS, AND RECORDS

1260.171 Reports.
1260.172 Books and records.
1260.173 Confidential treatment.

CERTIFICATION OF ORGANIZATIONS

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AUTHORITY: Beef Research and Information Act (7 U.S.C. 2901 et seq.).

Subpart—Beef Research and Information Order

DEFINITIONS

§ 1260.101 Secretary.

"Secretary" means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

§ 1260.102 Act.

"Act" means the Beef Research and Information Act (7 U.S.C. 2901 et seq.) and any amendments thereto.

§ 1260.103 Person.

"Person" means any individual, group of individuals, partnership, corporation,

association, cooperative, or any other entity.

§ 1260.104 Cattle.

"Cattle" means live domesticated bovine quadrupeds.

§ 1260.105 Beef.

"Beef" means the flesh of cattle.

§ 1260.106 Beef products.

"Beef products" means products produced in whole or in part from cattle, exclusive of milk and products made therefrom.

§ 1260.107 Fiscal period.

"Fiscal period" is the 12-month budgetary period and means the USDA's fiscal year unless the Beef Board, with the approval of the Secretary, selects some other 12-month period.

§ 1260.108 Beef Board or Board.

"Beef Board" or "Board" or other designatory term adopted by such Board means the administrative body established pursuant to § 1260.136.

§ 1260.109 Executive Committee.

"Executive Committee" means those members of the Beef Board, from 7 to 11 in number, who are elected by the Board to administer the provisions of this subpart under the supervision of the Board and within the policies determined by the Board.

§ 1260.110 Producer.

"Producer" means any person who owns or acquires ownership of cattle other than one who acquires cattle solely for the purpose of slaughter: *Provided*, That a person shall not be considered to be a producer if his only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

§ 1260.111 Producer-buyer.

"Producer-buyer" means a producer who buys cattle.

§ 1260.112 Producer-seller.

"Producer-seller" means a producer who sells cattle.

§ 1260.113 Slaughterer.

"Slaughterer" means any person who slaughters cattle including cattle of his own production.

§ 1260.114 United States.

"United States" means the 50 States of the United States of America and the District of Columbia.

§ 1260.115 Marketing.

"Marketing" means the sale or any other disposition of cattle, beef, or beef products in any channel of commerce.

§ 1260.116 Commerce.

"Commerce" means interstate, foreign, or intrastate commerce.

§ 1260.117 Producer organization or eligible organization.

"Producer organization" or "eligible organization" means any organization which has been certified by the Secretary pursuant to this subpart.

§ 1260.118 Producer information.

"Producer information" means facts, data, and other information that will assist producers in making decisions that lead to increased efficiency, lower cost of production, a stable supply of cattle, and the development of new markets.

§ 1260.119 Consumer information.

"Consumer information" means facts, data, and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparation, and utilization of beef and beef products.

§ 1260.120 Promotion.

"Promotion" means any action to advance the image or desirability of beef and beef products.

§ 1260.121 Research.

"Research" means any type of systematic study or investigation to advance the desirability, marketability, production, or quality of cattle, beef, and beef products, and includes the evaluation of such studies or investigations.

§ 1260.122 Transaction.

"Transaction" means any transfer of ownership of cattle or beef through a sale, trade, or other means of exchange.

§ 1260.123 Contracting party.

"Contracting party" means any individual, group of individuals, partnership, corporation, association, cooperative, or other entity, public or private, with which the Beef Board may enter into a contract or agreement pursuant to § 1260.146(e).

§ 1260.124 Marketing year.

"Marketing year" means the calendar year ending on December 31 or any other consecutive 12-month period designated by the Board, with the approval of the Secretary.

§ 1260.125 Part and subpart.

"Part" means 7 CFR Part 1260, containing rules, regulations, orders, supplemental orders, and similar matters concerning the Beef Research and Information Act. "Subpart" refers to any portion or segment of this part.

BEEF BOARD

§ 1260.136 Establishment and membership.

There is hereby established a Beef Board composed of not more than 68 producers, each of whom shall have an alternate, appointed by the Secretary from nominations submitted by eligible producer organizations within geographic areas certified pursuant to § 1260.176 or by producers in a manner authorized by the Secretary pursuant to § 1260.138(a).

§ 1260.137 Term of office.

The members of the Board and their alternates shall serve for terms of 3 years, except appointments to the initial Board shall be, proportionately, for terms of 1, 2, and 3 years. Each member and alternate member shall continue to serve until his successor is appointed by the Secretary and has accepted. No member or alternate member shall serve more than 6 consecutive years: *Provided*, That those members and alternate members appointed to the initial Board for 1 or 2 year terms are eligible to serve two additional consecutive terms.

§ 1260.138 Nominations.

All nominations to the Beef Board authorized under § 1260.136 shall be made in the following manner:

(a) Within 90 days of the announcement of approval of this Order, or a longer period if so prescribed by the Secretary, nominations shall be submitted to the Secretary for each member and each alternate member to be appointed for each geographic area as specified in paragraph (d) of this section by eligible organizations certified pursuant to § 1260.176: *Provided*, That if there is no eligible organization certified for a geographic area, or if the Secretary determines that a substantial number of producers are not members of, or their interests are not represented by, any such eligible organization, then nominations shall be submitted in a manner authorized by the Secretary;

(b) After the establishment of the Board, the nominations for subsequent board members and alternates shall be submitted to the Secretary not less than 60 days prior to the expiration of the terms of the members and alternates previously appointed to the Board;

(c) Where there is more than one eligible organization within a geographic area, they may caucus for the purpose of jointly nominating qualified persons for each member and for each alternate member to be appointed. If joint agreement is not reached with respect to any such nominations, or if no caucus is held within a defined geographic area, each eligible organization may submit to the Secretary nominations for each appointment to be made;

(d) For purposes of nominating members and their alternates to the Board, the United States shall be divided into geographic areas so as to reflect the proportion of cattle in each geographic area: *Provided*, That each designated geographic area shall be entitled to at least one member on the Board and one alternate member;

(e) The initial geographic areas and the number of members and alternates on the Beef Board from each area shall be: Alabama 1, Arizona 1, Arkansas 1, California 2, Colorado 2, Florida 1, Georgia 1, Idaho 1, Illinois 2, Indiana 1, Iowa 3, Kansas 3, Kentucky 2, Louisiana 1, Michigan 1, Minnesota 2, Mississippi 1, Missouri 3, Montana 1, Nebraska 3, New Mexico 1, New York 1, North Carolina 1, North Dakota 1, Ohio 1, Oklahoma 3, Oregon 1, Pennsylvania 1, South Carolina 1, South Dakota 2, Tennessee 2, Texas 7, Utah 1, Virginia 1, West Virginia 1, Wisconsin 2, Wyoming 1. Additional geographic areas, comprised of combined States, shall be: Nevada-Hawaii 1,

Washington-Alaska 1, Maryland-Delaware-New Jersey-District of Columbia 1, Maine-Vermont-New Hampshire-Massachusetts-Rhode Island-Connecticut 1; and

(f) After the establishment of the Board, the geographic areas provided for in paragraph (d) of this section, including the area distribution of members of the Board and their alternates, shall be reviewed within 5 years and at any time not to exceed 5 years from the date of the last review by the Board. The Board shall redefine the geographic areas and reapportion the membership of the Board, with approval of the Secretary, if it finds that the existing geographic areas are not properly represented in proportion to cash assessments, cash receipts for cattle, cattle numbers, and other related factors: *Provided*, That each such area shall be represented by at least one Board member.

§ 1260.139 Appointments.

From the nominations made pursuant to §§ 1260.136 and 1260.138, the Secretary shall appoint the members of the Board and an alternate for each member on the basis of the representation provided for in §§ 1260.136, 1260.137, and 1260.138.

§ 1260.140 Acceptance.

Any person appointed by the Secretary as a member or as an alternate member of the Board shall notify the Secretary of his acceptance in a manner prescribed by the Secretary.

§ 1260.141 Vacancies.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member or alternate member of the Board, a successor for the unexpired term of such member or alternate member of the Board shall be nominated and appointed in a manner specified in §§ 1260.136, 1260.137, 1260.138(b), and 1260.140, except that replacement of a Board member or alternate with an unexpired term of less than 6 months is not necessary.

§ 1260.142 Alternate members.

An alternate member of the Board, during the absence of the member for whom he is the alternate, shall act in the place and stead of such member at Board meetings and perform such other duties as assigned. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him at Board meetings until a successor for such member is appointed.

§ 1260.143 Procedure.

(a) A majority of the members of the Board, including alternates acting for members of the Board, shall constitute a quorum, and any action of the Board shall require the concurring votes of at least a majority of those present and voting. At assembled meetings all votes shall be cast in person.

(b) For matters which do not require deliberation and the exchange of views, and in matters of an emergency nature when there is not enough time to call an assembled meeting of the Board, the Board may also take action upon the concurring votes of a majority of its members by mail, telegraph, or telephone, but any such telephone vote shall be confirmed promptly in writing.

§ 1260.144 Compensation and reimbursement.

The members of the Board and alternates shall serve without compensation but shall be reimbursed for necessary and reasonable expenses incurred by them in the performance of their duties under this subpart.

§ 1260.145 Powers of the Board.

The Board shall have the following powers: (a) To supervise the administration of this subpart in accordance with its terms and conditions; (b) To make rules and regulations to effectuate the terms and provisions of this subpart; (c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this subpart; and (d) To recommend to the Secretary amendments to this subpart.

§ 1260.146 Duties of the Board.

The Board shall have the following duties:

(a) To meet and organize and to select from among its members a chairman and such other officers as may be necessary, to select committees and subcommittees of Board members, and to adopt such rules for the conduct of its business as it may deem advisable. The Board also may establish advisory committees of persons other than Board members;

(b) To appoint from its members an Executive Committee, consisting of not less than 7 nor more than 11 members, and to delegate to the Committee authority to employ a staff and administer the terms and provisions of this subpart under the direction of the Beef Board and within the policies determined by the Board. The membership of the Executive Committee shall be generally representative of the cattle industry and shall reflect, to the extent practicable, the same geographic distribution of membership as the Beef Board itself;

(c) To develop and submit to the Secretary plans or projects, together with the Board's recommendations with respect to the approval thereof by the Secretary;

(d) To prepare and submit to the Secretary for his approval budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of this subpart, including probable costs of each research, information, advertising, promotion, and developmental plan or project. The Board shall also submit informational copies of such budgets to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry;

(e) To enter into contracts or agreements, with the approval of the Secretary, with appropriate contracting parties for the development and carrying out of the projects and programs of the Board as authorized by § 1260.151, and for the payment of the costs thereof with funds accruing pursuant to the administration of this subpart: *Provided*, That nothing in this subpart shall preclude the Board from conducting projects or activities on its own to effectuate the intent and purposes of the Act. Any such contract or agreement shall also provide that such contracting parties shall develop and submit to the Board a plan or project, together with a budget or budgets which shall show the estimated cost to be incurred for such plan or project, and that any such plan or project shall become effective upon approval by the Secretary. Any such contract or agreement shall also provide that the contracting parties shall keep accurate records of all of their activities with respect to the contract or agreement and make periodic reports to the Board of activities carried out, an accounting for funds received and expended, and such other reports as the Secretary or Board may require;

(f) To maintain such books and records and prepare and submit such reports from time to time to the Secretary as he may prescribe and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(g) To prepare and make public, at least each fiscal period, a report of activities carried out and an accounting for funds received and expended;

(h) To cause its books to be audited by a public accountant at least once each fiscal period and at such other times as the Secretary may request and to submit a copy of each such audit to the Secretary;

(i) To give the Secretary the same notice of meetings of the Board as is given to members in order that he or his representative may attend such meetings; and

(j) To submit to the Secretary such information pertaining to this subpart as he may request.

RESEARCH, INFORMATION, EDUCATION, AND PROMOTION

§ 1260.151 Research, information, education, and promotion.

(a) The Beef Board shall in the manner prescribed in § 1260.146 provide for:

(1) The establishment, issuance, effectuation, and administration of plans or projects for advertising, promotion, education, producer information, and consumer information with respect to the use of cattle, beef, and beef products and for the disbursement of necessary funds for such purposes;

(2) The establishment and carrying on of research, market development projects, and studies with respect to the production, sale, processing, distribution, marketing, or utilization of cattle, beef, and beef products and the creation of new products thereof, in accordance with section 7(b) of the Act, to the end that the production, marketing, and utilization of cattle, beef, or beef products may be encouraged, expanded, im-

proved, or made more efficient and/or acceptable and the data collected by such activities may be disseminated, and for the disbursement of necessary funds for such purposes; and

(3) The development and expansion of foreign markets and uses for cattle, beef, or beef products.

(b) Each program or project authorized under paragraph (a) of this section shall be periodically reviewed or evaluated by the Board to insure that each such plan or project contributes to an effective and coordinated program of research, information, education, and promotion. If it is found by the Board that any such program or project does not further the purposes of the Act, then the Board shall terminate such program or project.

(c) No reference to a private brand or trade name shall be made if the Secretary determines that such reference will result in undue discrimination against the cattle, beef, or beef products of other persons in the United States. No such advertising, consumer education, or sales promotion program shall make use of claims in behalf of cattle, beef, or beef products, or statements with respect to quality, value, or use of any competing product if the Secretary determines them to be false or misleading.

STATE BEEF COUNCILS

§ 1260.156 Continuity.

The Beef Board may allocate up to 10 percent of net assessments from each State for use during the next fiscal year by the qualifying State beef council, beef board, or other beef promotion entity: *Provided*, That during the first year, the Beef Board may estimate the net assessments from each State and upon request from such entity provide up to 10 percent of estimated net assessments. The amount of net assessments from each State shall be computed by the Beef Board to reflect total assessments in such State less a deduction for refunds to producers in such State. Any request for funds shall be made by a State beef promotion entity which meets the qualifications specified in § 1260.157.

§ 1260.157 Qualifications.

To qualify for the receipt of funds pursuant to § 1260.156, a State beef board, beef council, or other beef promotion entity shall (a) be organized pursuant to legislative authority within the State or be organized by State charter, (b) have goals and purposes complementary to the goals and purposes of the Act, and (c) demonstrate ability to provide research, information, education, or promotion consistent with the Act and this subpart. The request from a State beef promotion entity for such funds shall show plans or projects and estimated costs of activities for which the funds will be used. The contract or agreement for such funds shall provide that the State promotion entity shall keep accurate records of all activities with respect to the contract or agreement and make periodic reports to the Board of activities carried out, an accounting for funds received and expended, and such other reports as the Board or the Secretary may require. In no event shall more than one such entity qualify within a State. If more than one entity applies for qualification within a State, the Beef Board shall choose, subject to the approval of the Secretary, the one most qualified to fulfill the purposes of the Act and this subpart.

EXPENSES AND ASSESSMENTS

§ 1260.161 Expenses.

(a) The Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from assessments received pursuant to § 1260.162 and other funds available to the Board.

(b) The Board shall reimburse the Secretary, from producer assessments, for all the expenses and expenditures, excluding salaries, which the Secretary determines were incurred by the Government in the preparation of an original order and the conduct of the referendum considering its approval.

(c) The Board shall reimburse the Secretary, from producer assessments, for administrative costs, including salaries, which the Secretary determines are incurred by the Government with respect to this subpart.

§ 1260.162 Assessments.

(a) Each producer-seller, upon sale or transfer of ownership of any cattle, except as provided below, shall pay to the producer-buyer or slaughterer thereof, pursuant to regulations issued by the Board, and such producer-buyer or slaughterer shall collect from the producer-seller an assessment based on the value of the cattle involved in the transaction as follows:

(1) The Beef Board, with the approval of the Secretary, shall set the amount of assessment, not to exceed five-tenths of 1 percent of the sale price;

(2) The assessment rate for the first three years shall not exceed three-tenths of 1 percent of the sale price;

(3) In the event that no sales transaction occurs at the point of slaughter or other transfer, a fair commercial market value shall be attributed to the cattle for the purpose of determining the assessment;

(4) Cattle slaughtered for his own home consumption by a producer who has been the sole owner of such cattle shall not be subject to assessments provided in this subpart;

(5) The Beef Board shall provide for the adjustment of the value of breeding cattle or classes of breeding cattle, including those used in milk production, so as not to exceed their commercial market value for beef, or it shall exempt collection of the assessment on such cattle until time of slaughter;

(6) Each slaughterer shall remit assessment(s) collected to the Beef Board at such times and in such manner as prescribed by regulations issued by the Board, including any assessment(s) due at time of slaughter on cattle of his own production;

(7) Failure of the slaughterer to collect the assessment(s) on each animal shall not relieve the slaughterer of his obligation to remit the assessment(s) to the Beef Board as required in this subpart; and

(8) The Beef Board may collect directly from any producer any assessment(s) that he collected under the provisions of this subpart or otherwise due which were not passed along in the manner set forth in this subpart due to the loss in value of the cattle or due to the export of the cattle or due to other reasons.

(b) The Beef Board may accumulate a reasonable reserve of approximately the average yearly collections to maintain continuity of programs and fulfill other obligations and expenses.

(c) The Secretary may maintain a suit in the several district courts of the United States against any person subject to the Order for the collection of any assessment due pursuant to this section.

§ 1260.163 Producer refunds.

Any producer-seller on whose cattle an assessment is made and collected from him under the authority of the Act shall have the right to demand and receive from the Beef Board a refund of such assessment upon submission of proof satisfactory to the Board that the producer-seller paid the assessment for which refund is sought. Any such demand shall be made by such producer-seller in accordance with regulations and on a form prescribed by the Board and approved by the Secretary. Such demands shall be made within 60 days after the end of the month in which the transaction occurred upon which said refund is based. Refund shall be made within 60 days after the submission of proof satisfactory to the Board that the producer-seller paid the assessment for which refund is sought: *Provided*, That no producer shall claim or receive a refund of any portion of an assessment which he collected from other producers.

§ 1260.164 Influencing governmental action.

No funds collected by the Board under this subpart shall in any manner be used for the purpose of influencing governmental policy or action except as provided in this subpart.

REPORTS, BOOKS, AND RECORDS

§ 1260.171 Reports.

Each slaughterer subject to this subpart shall be required to report to the Beef Board periodically such information as may be required by regulations established by the Board.

§ 1260.172 Books and records.

Each slaughterer shall maintain and make available for inspection by the Beef

Board and the Secretary such books and records as are necessary to carry out the provisions of this subpart and the regulations issued thereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least two years beyond the marketing year of their applicability.

§ 1260.173 Confidential treatment.

All information obtained from such books, records, or reports required to be maintained under §§ 1260.171 and 1260.172 and all information obtained by the Beef Board pertaining to producer refunds made pursuant to § 1260.163 shall be kept confidential by all employees of the Beef Board, all employees of the Department of Agriculture, and all officers and employees of contracting parties, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which any officer of the United States is a party, and involving this subpart: *Provided, however,* That nothing in this subpart shall be deemed to prohibit (a) the issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person, (b) the publication of general statements relating to refunds made by the Beef Board during any specific period, which statements do not identify any person to whom refunds are made, or (c) the publication by direction of the Secretary of the name of any person violating this subpart, together with a statement of the particular provisions violated by such person.

CERTIFICATION OF ORGANIZATIONS

§ 1260.176 Certification of organizations.

(a) Any producer organization within a geographic area designated pursuant to §§ 1260.136 and 1260.138 may request the Secretary to certify its eligibility to represent cattle producers to participate in nominating members and alternate members to represent such geographic area on the Beef Board. Such eligibility shall be based, in addition to other available information, upon a factual report submitted by the organization which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including but not limited to the following:

(1) Geographic area covered by the organization's active membership;

(2) Nature and size of the organization's active membership, proportion of total of such active membership accounted for by producers of cattle, and the volume of cattle produced by the organization's active membership in each such State or applicable geographic area(s);

(3) The extent to which the cattle producer membership of such organization is represented in setting the organization's policies;

(4) Evidence of stability and permanency of the organization;

(5) Sources from which the organization's operating funds are derived;

(6) Functions of the organization; and

(7) The organization's ability and willingness to further the aims and objectives of the Act.

(b) The primary consideration in determining the eligibility of an organization shall be whether its producer membership consists of a substantial number of producers who produce a substantial volume of cattle in the geographic area subject to the provisions of this subpart.

(c) The Secretary shall certify any organization which he finds to be eligible under this section and his determination shall be final. After the original certification of an organization, such organization shall request recertification at any time it wishes to nominate a member to the Board and the Secretary may require recertification at any time.

MISCELLANEOUS

§ 1260.181 Patents, copyrights, inventions, and publications.

Any patents, copyrights, inventions, or publications developed through the use of funds collected under the provisions of this subpart shall be the property of the Beef Board, and shall, along with any rents, royalties, residual payments, or other income from the rental, sale, leasing, franchising, or other uses of such patents, copyrights, inventions, or publications, inure to the benefit of the cattle industry. Upon termination of this subpart, § 1260.183 applies to determine disposition of all such property.

§ 1260.182 Suspension and termination.

(a) The Secretary shall, whenever he finds that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this subpart or such provision.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of 10 percent or more of the number of cattle producers voting in the referendum approving this subpart, to determine whether cattle producers favor the termination or suspension of this subpart, and the Secretary shall suspend or terminate such subpart 6 months after he determines that its suspension or termination is approved or favored by a majority of the producers of cattle voting in such referendum who, during a representative period determined by the Secretary, have been engaged in the production of cattle and who produced more than 50 percent of the volume of the cattle produced by the cattle producers voting in the referendum.

§ 1260.183 Proceedings after termination.

(a) Upon the termination of this subpart, the Beef Board shall recommend not more than five of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Beef Board. Such persons, upon designation by the Secretary, shall become trustees of all of the funds and property then in the possession or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall: (1) continue in such capacity until discharged by the Secretary; (2) carry out the obligations of the Beef Board under any contracts or agreements entered into by it pursuant to § 1260.146(e); (3) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person as the Secretary may direct; and (4) upon the direction of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligations imposed upon the trustees.

(d) Any residual funds or property not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be utilized, to the extent practicable, in the interest of continuing one or more of the beef research or information programs hitherto authorized.

§ 1260.184 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any right or remedies of the United States, or of any person, with respect to any such violation.

§ 1260.185 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Board or by an organization certified pursuant to Section 15 of the Act, or by any interested person affected by the provisions of the Act, including the Secretary.

§ 1260.186 Personal liability.

No member, alternate member, or employee of the Beef Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such mem-

ber, alternate, or employee except for acts of dishonesty or willful misconduct.

§ 1260.187 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.

Single copies of this decision and Order may be obtained from the Livestock Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

REFERENDUM

Rules governing the procedure to conduct referenda on the Beef Research and Information Order will be promulgated and notice will be given designating the time and manner for conducting the referendum to consider this Order.

The Agricultural Marketing Service 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.

Signed at Washington, D.C. on April 12, 1977.

BOB BERGLAND,
Secretary.

[FR Doc.77-11185 Filed 4-14-77;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.

CIVIL SERVICE COMMISSION

[5 CFR Part 552]

PROCESSING GARNISHMENT ORDERS ISSUED AGAINST U.S.

Proposed Uniform Procedures for Executive Agencies

AGENCY: Civil Service Commission.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rule prescribes the requirements for the garnishment of moneys due from the United States as remuneration for employment, where the garnishment, or similar legal process, is brought to enforce child support or alimony obligations. This proposed rule is published in compliance with Executive Order 11881, October 3, 1975. We intend these regulations to provide uniform procedures for all executive agencies to follow in processing garnishment orders issued against the United States.

DATES: Comments must be received on or before May 31, 1977.

ADDRESSES: Send comments to: Office of the General Counsel (Room 5H36), U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Murray Meeker, Attorney Advisor, Office of the General Counsel, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415. (202-632-5524).

SUPPLEMENTARY INFORMATION:

THE SOCIAL SERVICES AMENDMENTS OF 1974

On January 4, 1975, Congress amended the Social Security Act with the enactment of Pub. L. 93-647, the Social Services Amendments of 1974. Pub. L. 93-647 added a number of new sections to the Social Security Act, including section 459 which waived the sovereign immunity of the United States to allow for the acceptance of garnishment orders, or similar legal process, for the enforcement of child support and alimony obligations. Congress expressly provided that section 459 would be effective on January 1, 1975, but Congress did not assign responsibility for the implementation of section 459 to any agency. It was soon evident, however, that questions concerning the garnishment provision would have to be answered, and an Ad Hoc Interdepartmental Committee was formed.

The Ad Hoc Interdepartmental Committee included representatives from the Commission, the Justice Department, the Defense Department, the Office of Management and Budget, the Department of Health, Education, and Welfare, the Postal Service, and the Treasury Department. The Committee met in March of 1975 and determined that an Executive Order should be issued which would delegate authority for the promulgation of regulations to implement section 459. Accordingly, Mr. Russell Chapin of the Justice Department, Chairman of the Ad Hoc Interdepartmental Committee, prepared a proposed Executive Order which was circulated to numerous departments and agencies for comment.

On August 8, 1975, a revised version of Chairman Chapin's proposed Executive Order was sent to Attorney General Edward H. Levi, and on October 3, 1975, Executive Order 11881 was issued.

EXECUTIVE ORDER 11881

Executive Order 11881 provides, inter alia, that the Civil Service Commission, in consultation with the Justice Department, shall issue regulations for the uniform implementation by all executive agencies of section 459. Executive Order 11881 also provides that the regulations issued by the Civil Service Commission shall be made available to the public by publication in the FEDERAL REGISTER.

On May 17, 1976, the Commission submitted proposed regulations to Mr. Irving Jaffe, Deputy Assistant Attorney General, and on December 20, 1976, Mr. Rex E. Lee, Assistant Attorney General, returned the proposed regulations with a significant number of recommended changes, the great majority of which have been accepted.

Accordingly, it is proposed that 5 CFR Part 552 be added as follows:

PART 552—GARNISHMENT

Subpart A—Purpose and Definition

Sec.
552.101 Purpose.
552.102 Definitions.

Subpart B—Service of Process

552.201 Official to receive process.
552.202 Service of process.
552.203 Data and documents to accompany legal process.

Subpart C—Compliance With Process

552.301 Suspension of payments.
552.302 Notification of individual obligor affected.
552.303 Answering interrogatories.
552.304 Validity of legal process.
552.305 Honoring legal process.
552.306 Lack of moneys due from or payable by an executive agency served with legal process.
552.307 Invalid legal process.

AUTHORITY: 42 U.S.C. 659; E.O. 11881, 3A CFR, 1975 Comp., p. 191.

Subpart A—Purpose and Definition

§ 552.101 Purpose.

The purpose of this part is to carry into effect the objectives of section 659 of title 42, United States Code, which provides that the United States be subject, in like manner and to the same extent as a private person, to legal process brought to collect moneys due from, or payable by, the United States to any individual (the entitlement to which is based upon remuneration for employment) to enforce such individual's legal obligation to provide child support and/or to make alimony payments.

§ 552.102 Definitions.

In this part:

(a) "Executive agency" means all departments, both civilian and military, independent establishments, the Postal and all agencies, boards, commissions, all wholly-owned Federal corporations, and all agencies, boards, commisisons, councils, bodies, groups, entities, organizations or instrumentalities of the Government of the United States, including advisory bodies, except those in the legislative or judicial branches of the Government of the United States.

(b) "Legal process" means any writ, order, summons, or other similar process, issued by a court of competent jurisdiction within any State, territory or possession of the United States, or issued by any official authorized by law to issue such process, which compels or seeks to compel a third party who owes moneys to an individual, to pay such moneys or any portion of such moneys to an alimony or child support creditor of that individual, in order to satisfy such creditor's claim against the individual.

(c) "Moneys due from, or payable by, the United States" means all moneys due an individual from an executive agency, where the entitlement of such individual to such moneys is based on remuneration for employment, as defined in § 552.102 (d); *Provided, however,* That any moneys or portion of moneys so due an individual which are withheld from such individual for the following reasons shall not be considered as due such individual:

(1) Pursuant to any statute of the United States, or regulation issued thereunder, which provides for the mandatory withholding of moneys otherwise due and payable including, but not limited to, any statute which provides for:

(i) The withholding or payment of Federal income taxes;

(ii) The payment of life insurance premiums;

(iii) The payment of premiums for any health benefits program;

(iv) Deductions for any retirement program, Survivor Benefit Plan, or Retired Serviceman's Family Protection Plan;

(v) The withholding or payment of Social Security tax, or

(2) The payment of any debt owed the United States, including a fine or forfeiture ordered by a court-martial; or

(3) The withholding, or payment, of any taxes levied by any State or locality: *Provided, however*, That such withholding or payment is required by sections 5516, 5517, or 5520 of title 5, United States Code.

(4) The reduction or suspension of benefit payments pursuant to sections 402-404, 422, 424, or 425 of title 42, United States Code.

(d) Moneys held by an executive agency which may be due and payable to an individual at some future date shall not be considered due such individual unless and until all of the conditions necessary for payment of the moneys to the individual have been met, including, but not limited to, the following conditions which might apply: (1) Retirement; (2) Resignation from a position in the Federal service; (3) Application for payment of moneys by the individual.

(e) "Remuneration for employment" means all compensation for personal service performed by an individual whatever the denomination used, including, but not limited to:

(1) Any wages, salary or pay, including the scheduled, basic or regular pay, night differentials, Sunday and holiday premium pay, overtime pay, environmental differentials, hazardous duty pay, cost-of-living allowance, tropical differentials, recruitment incentives, post differentials, cash awards under any incentive awards programs, any payments in consideration of accrued leave, and any similar payment the entitlement to which is for the personal service of the payee in the employment of the United States is a civilian employee;

(2) Any basic pay (including Service Academy Cadet and Midshipman pay) special pay, enlistment and re-enlistment bonuses, lump sum bonuses, continuation pay for physicians and dentists, special pay for physicians, dentists, and veterinarians, any incentive pay, inactive duty training pay, administrative duty pay, academy official pay, any payments made in consideration of accrued leave (basic pay portion only), severance pay (other than for disability), retired/retainer pay, and any similar payment the entitlement to which is for personal service of the payee in the employment of the United States as a member of the uniformed services;

(3) Any payment made to an individual by an executive agency, under the terms of a contract between such individual and such executive agency, where the payment is made in consideration of personal services rendered by such individual;

(4) Any payments by an executive agency to an individual in consideration of past services rendered, including, but not limited to, any periodic payments of annuities or other benefits under a Federal retirement program, whether civilian or military, where the payee's entitlement to such payment is based on his or her own past employment; any payments made pursuant to title II of the Social Security Act as amended, 42 U.S.C. 402 or 423, where the beneficiary's entitlement to such payments is based on his or her own earnings.

(5) "Remuneration for employment" does not mean, however, payments the entitlement to which is by reasons other than or in addition to personal services or the employment of an individual and, therefore does not include, among other payments, the following:

(i) Any payment intended to reimburse or defray expenses incurred by an individual in execution of duties associated with employment by the United States or any executive agency thereof, including, but not limited to (A) in the case of civilian employees, uniform allowances, travel and transportation expenses, relocation expenses, storage expenses, and per diem allowances, and (B) in the case of members of the uniformed services position pay (Navy only), basic allowance for quarters, basic allowance for subsistence, station allowances, travel and transportation allowances, dislocation allowances, family separation allowances, ROTC subsistence allowances, allowance for recruiting expenses, education allowance for dependents, clothing allowances, uniform allowances, and personal money allowances for general or flag officers, and for the Surgeon General of the United States;

(ii) Any benefit payment made pursuant to any life insurance or health insurance agreement or plan under which the United States, or any executive agency thereof, may have made premium payments, or in any way established, contributed to, administered, or regulated;

(iii) Any payment or portion of a payment, made to an individual, in which that individual's entitlement is based on injuries or illnesses incurred in the scope of any employment with the United States or any executive agency thereof, or otherwise, including, but not limited to, any payments made pursuant to any workman's compensation plan, or pursuant to provisions of the Federal Employees Compensation Act, as amended, 5 U.S.C. 8101 et seq., or pursuant to the provisions of the Federal Tort Claims Act, as amended, 28 U.S.C. 1291, 1346, et al.;

(iv) Payments made pursuant to any Federal retirement programs, whether civilian or military, or pursuant to Title II of the Social Security Act, as amended, 42 U.S.C. 402 or 423, in which the entitlement of the payee or beneficiary is based not on his or her own employment, former employment, contributions, or earnings, but rather is based solely on such individual's status as spouse, widow, widower, child, parent, or beneficiary of an estate of a deceased person;

(v) Payments or portions of payments made pursuant to any Federal retirement program, whether civilian or military, in which the entitlement of the payee to such payments or portions thereof is based on the nature or extent of a disabling illness or injury suffered by the payee; except that payments or portions of payments shall be considered remuneration for employment if the existence of a disabling illness or injury merely engenders present rather than future entitlement, and the nature or extent of such disabling illness or injury is not used as a basis for determining the amount of the payment due the payee.

(f) "Alimony" means any legal obligation of an individual to support and maintain the individual's spouse or former spouse through the periodic payment of funds, or through other means, and includes, but is not limited to, separate maintenance, pendente lite relief, maintenance, spousal support, or alimony. Court costs, interest on unpaid arrearages, and attorney's fees, incurred in connection with the establishment or enforcement of the above-mentioned legal obligation may also be recovered when and to the extent embodied in a decree, judgment, or order of a court of competent jurisdiction. Alimony does not include the legal obligation to transfer property or its value in compliance with any property settlement, or equitable distribution of property, or the division of property among and between spouses or former spouses.

(g) "Child support" means the legal obligation of a parent to support and maintain his or her child or children, and includes, but is not limited to, periodic payments of funds for the support and maintenance of such child or children, and payments made for specific purposes, such as health care, education, recreation, clothing, or other necessities of life. Court costs, interest on unpaid arrearages, and attorney's fees, incurred in connection with the establishment or enforcement of the above-mentioned legal obligation may also be recovered when and to the extent embodied in a decree, judgment, or order of a court of competent jurisdiction.

(h) "Legal obligation" means an obligation which has been recognized by the obligor in a signed writing and which is enforceable under appropriate state or local law, or an obligation which has been established by a court of competent jurisdiction or other official body authorized to establish such an obligation, pursuant to appropriate state or local law.

(i) "Obligor" means an individual who, having a legal obligation to pay alimony and/or child support, has failed to discharge such obligation or obligations.

(j) "A party" means the person or persons to whom payment of alimony and/or child support should have been made, or, in the case of an agency established by State or local law, the agency which, by law or by agreement of the person or persons to whom such payment or payments of alimony and/or child support should have been made, has been assigned or has been subrogated to the

right to receive such payment or payments.

Subpart B—Service of Process

§ 552.201 Official to receive process.

(a) The head of each executive agency shall designate an official or officials upon whom service of legal process against the agency may be had in order to facilitate and expedite the agency's compliance with such legal process, and shall, within 45 days of the publication of this part; (1) provide to the Civil Service Commission the position title, mailing address and telephone number of each designated official, and, if applicable, the geographic limits of process to be served on each official named or; (2) if there is a class of designated officials describable by common position, provide to the Civil Service Commission a description of that class with any general geographic limits as to service of process for each official.

(b) The Civil Service Commission shall, within a reasonable time after it receives the information to be supplied pursuant to paragraph (a) of this section, publish that information as an appendix to this part.

§ 552.202 Service of process.

(a) A party using this part shall serve on the official of the executive agency which has moneys due or payable to that party's alimony and/or child support obligor, legal process which names the United States and the executive agency as the third party debtor (garnishee). Where it does not appear from the face of the legal process that it has been brought to enforce the legal obligation(s) authorized in paragraphs (f) and/or (g) of § 552.102, the legal process must be accompanied by a certified copy of the court order establishing such legal obligation(s).

(b) Service of process shall be accomplished by serving the official designated by the executive agency to receive such process at the address specified in person, or by registered or certified mail, "Return Receipt Requested," which information will be contained in the appendix to this part; except that if an executive agency has failed to designate an official to receive service of process, or if such designation does not appear in the appendix to this part, service may be had on the executive agency by serving the head of the executive agency in person, or by registered or certified mail, "Return Receipt Requested."

§ 552.203 Data and documents to accompany legal process.

Sufficient identifying information must accompany the legal process in order to enable processing by the executive agency named. Therefore, the following identifying data, if known, is requested:

(a) Full name of the obligor of the original alimony and/or child support obligations,

(b) Date of birth of the obligor,

(c) Employment number, social security number, or civil service claim number of the obligor, and

(d) Component of the agency for which the obligor works, and official duty station or work site of the obligor.

In the event that the information submitted is not sufficient to identify the obligor, the legal process should be returned directly to the court, and the court should be advised of the deficiency. However, prior to returning the legal process to the court, if there is sufficient time, an attempt should be made to inform the party who caused the legal process to be served, or his/her representative, that the legal process will not be honored unless adequate identifying data is supplied.

Subpart C—Compliance With Process

§ 552.301 Suspension of payments.

Upon proper service of legal process together with all supplementary documents and data as required by §§ 552.202 and 552.203, the head of the executive agency or his/her designee, shall identify the individual alimony and/or child support obligor to whom that executive agency holds moneys due and payable as remuneration for employment, and shall suspend such remuneration payment or payments to that obligor for any amounts necessary to permit compliance with the legal process in accordance with the law of the jurisdiction from which it was issued.

§ 552.302 Notification of individual obligor affected.

Immediately upon receipt of legal process, the head of an executive agency, or his or her designee, shall notify in writing the individual whose remuneration for employment is affected by such legal process, of the receipt of such legal process, the effect of such legal process on his or her remuneration, and that the United States does not represent the interests of the individual in the pending legal proceedings. The notice shall also include copies of the legal process and of supporting documents, and shall advise the individual that he or she may wish to consult legal counsel regarding defenses to the legal process that he or she may wish to assert.

§ 552.303 Answering interrogatories.

The head of the executive agency, or his/her designee, served with interrogatories or subpoenas duces tecum as a part of the legal process served under this part, shall, within the time limit provided under applicable State or local law, or within such enlargement thereof as may be obtained, answer such inquiries or provide such records as are necessary for the party submitting such questions or desiring such records to utilize section 659 of title 42, United States Code, and the regulations contained in this part; except that in complying with such interrogatories or subpoenas, the head of the executive agency, or his/her designee, must maintain compliance with the provisions of section 552a of title 5, United States Code.

§ 552.304 Validity of legal process.

Upon receipt of service of legal process, the head of the executive agency, or his/her designee, shall review such legal process and accompanying documents in order to:

(a) Determine if they are in compliance with the requirements of this part, and

(b) Determine if such legal process is facially in conformity with the laws of the jurisdiction in which the court or other legal authority which issued such process is located.

§ 552.305 Honoring legal process.

(a) Subject to paragraph (b) of this section, the head of an executive agency, or his/her designee, shall honor and comply with all legal process received by the executive agency in accordance with these regulations: *Provided*, That:

(1) The obligor is due moneys, the entitlement to which is based on remuneration for employment, from the executive agency which received such legal process; and

(2) The head of the executive agency, or his/her designee has not been served with an order of a court of competent jurisdiction enjoining the enforcement of such legal process; and

(3) Enforcement of the legal process will not subject the United States or the executive agency to multiple liability for the moneys which such legal process attaches, and

(4) Mutiple legal process seeking to attach the same moneys shall be honored by the head of the executive agency, or his/her designee, in the order of receipt until such moneys are exhausted.

(b) In honoring and complying with legal process under paragraph (a) of this section, the head of an executive agency, or his/her designee, shall not be required to disrupt the scheduled method of accruing remunerative payments, or the regular timing for making such payments generally used by the agency, despite the existence of a special schedule of accrual or payment of amounts due a party contained in the legal process; except that within the confines of the agency's established accrual and payment schedule, the head of the agency, or his/her designee, shall as nearly as is practicable, comply with the terms of legal process.

§ 552.306 Lack of moneys due from or payable by an executive agency served with legal process.

(a) When legal process is served on an executive agency, and the individual identified in the legal process as the obligor is found not to be entitled to moneys due from or payable by the executive agency, the head of the agency, or his/her designee, shall follow the procedures set forth in the legal process for such contingency or, if no procedures are set forth therein, shall return such legal process to the court, or other authority from which it was issued, and advise such court, or other authority, and the party, that no moneys, subject

to section 659 of title 42, United States Code, are due from or payable by the executive agency to the named obligor.

§ 552.307 Invalid legal process.

Whenever the head of an executive agency, or his/her designee, determines that legal process served upon his or her agency cannot be complied with because:

(a) It does not facially conform to the laws of the jurisdiction from which it was issued; or

(b) The legal process (1) would require the withholding of funds not deemed moneys due from, or payable by, the United States as remuneration for employment, as set forth in paragraphs (c)–(e) of § 552.102 or (2) is not brought to enforce legal obligation(s) for alimony and/or child support, as authorized in paragraphs (f) and/or (g) of § 552.102; or

(c) An order of a court of competent jurisdiction enjoining or suspending the operation of such legal process has been served on the executive agency;

The head of the executive agency, or his/her designee, shall immediately refer the matter to the United States Attorney for the District embracing the jurisdiction from which the legal process issued, and shall inform the party who caused the legal process to be served or his/her representative that the legal process will not be honored.

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

[FR Doc.77-11066 Filed 4-14-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Chapter VII]

BEEF RESEARCH AND INFORMATION

Conduct of Referenda

CROSS REFERENCE: For a document issued jointly by the Agricultural Marketing Service and the Agricultural Stabilization and Conservation Service on procedures for referenda regarding the Beef Research and Information Program, see FR Doc. 77-11184, under the Agricultural Marketing Service in the Proposed Rules section of this issue of the FEDERAL REGISTER.

Agricultural Marketing Service

[7 CFR Part 1260]

[Doc. No. BRIA-1]

BEEF RESEARCH AND INFORMATION

Procedure for the Conduct of Referenda

AGENCIES: Agricultural Marketing Service and Agricultural Stabilization and Conservation Service.

ACTION: Proposed Rule.

SUMMARY: The proposed regulation would establish the procedure for the conduct of referenda with respect to any Beef Research and Information Order or amendment issued pursuant to the Beef Research and Information Act. This action is necessary because the Act provides that an Order must be submitted to a referendum among eligible beef producers before it can become effective.

DATE: Comments must be received by April 30, 1977.

ADDRESS: Send written comments to Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Robert Cook, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Room 3639 South Building, Washington, D.C. 20250, 202-447-5735.

SUPPLEMENTARY INFORMATION: The Act provides that the Secretary of Agriculture shall issue a Beef Research and Information Order, or amendments thereto, applicable to producers and slaughterers of cattle to effectuate the declared policy of the Act. The Act further provides that the Secretary shall conduct a referendum among cattle producers for the purpose of ascertaining whether the issuance of an Order is approved or favored by cattle producers. This proposed procedure for the conduct of referenda is in accordance with the authority vested in the Secretary of Agriculture by the Act.

The public is invited to submit written exceptions or recommendations regarding the proposed regulations to the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250, no later than April 30, 1977, to be sure of consideration. Each person submitting comments, suggestions, or objections regarding the proposed regulations shall include his name and address and give reasons for any suggested changes. Copies of all written communications received will be available for examination by interested persons at the office of the Hearing Clerk during regular business hours.

In accordance with the above, it is proposed to amend 7 CFR Part 1260 by adding a new Subpart at follows:

Subpart—Procedure for the Conduct of Referenda In Connection with Beef Research and Information Order

Sec.

1260.200 Referenda.
1260.201 Definitions.
1260.202 Supervision of referendum.
1260.203 Requirements of referendum.
1260.204 Computation of time.
1260.205 Public notice.
1260.206 Eligibility.
1260.207 Registration.
1260.208 Voting.
1260.209 Challenge of eligibility.
1260.210 Receiving ballots.
1260.211 Canvassing ballots.
1260.212 County ASCS Office report.
1260.213 State ASCS Office report.
1260.214 Results of the referendum.
1260.215 Disposition of ballots and records.
1260.216 Suspension and termination of order.
1260.217 Instructions and forms.

AUTHORITY: (Sec. 17, Pub. Law 94-294, 90 Stat. 537 (7 U.S.C. 2916).)

Subpart—Procedure for the Conduct of Referenda in Connection With Beef Research and Information Order

§ 1260.200 Referenda.

Referenda for the purpose of ascertaining whether the issuance by the Secretary of Agriculture of a Beef Research and Information Order, or the amendment, continuance, termination, or suspension of such an Order, is favored by producers, shall, unless supplemented or modified by the Secretary, be conducted in accordance with this Subpart.

§ 1260.201 Definitions.

(a) "Secretary" means the Secretary of Agriculture or any other officer or employee of the U.S. Department of Agriculture to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(b) "ASCS" means the Agricultural Stabilization and Conservation Service.

(c) "Act" means the Beef Research and Information Act (7 U.S.C. 2901 et seq.) and any amendments thereto.

(d) "Deputy Administrator" means the Deputy or Acting Deputy Administrator, Programs, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

(e) "State ASC Committee" means the group of persons within a State designated by the Secretary to act as the State Agricultural Stabilization and Conservation committee.

(f) "County ASC Committee" means the group of persons within a county elected to act as the county Agricultural Stabilization and Conservation committee, pursuant to the regulations governing the election and functioning of the county Agricultural Stabilization and Conservation committee.

(g) "County ASCS Executive Director" means the person employed by the county ASC committee to execute the policies of the county ASC committee and be responsible for the day-to-day operation of the county ASCS office, or the person acting in such capacity.

(h) "Person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(i) "Cattle" means live domesticated bovine quadrapeds.

(j) "Producer" means any person who owns or acquires ownership of cattle other than one who acquires cattle solely for the purpose of slaughter: *Provided*, That a person shall not be considered to be a producer if his only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

(k) "Order" means the Beef Research and Information Order or any amend-

ment thereto promulgated pursuant to the Act with respect to which the Secretary has directed that a referendum be conducted.

(l) "Representative Period" means a consecutive twelve-month period preceding the referendum designated by the Secretary.

(m) "Registration Period" means a 12-day period to be announced for the registration of producers desiring to vote in a referendum. The registration period shall end not less than ten calendar days prior to the first day of the voting period.

(n) "Voting Period" means a 12-day period to be announced for voting in a referendum.

§ 1260.203 Requirements of referendum.

No Beef Research and Information Order or amendment thereto issued under the Act shall become effective unless the Secretary determines (a) that valid ballots were cast by at least 50 percent of the eligible producers registered to vote, and (b) that the issuance of such Order is approved or favored by not less than two-thirds of the producers casting valid ballots in such referendum.

§ 1260.204 Computation of time.

Sundays and Federal holidays shall be included in computing the time allowed for the filing of any documents or taking any action: *Provided*, That when such time expires on a Sunday or a Federal holiday, such period shall be extended to include the next following business day.

§ 1260.205 Public notice.

Advance public notice of the referendum shall be provided without advertising expense by the State and county ASCS offices by means of newspapers, television, county newsletter, county extension agents, etc. Such notice shall announce the registration requirements and other pertinent information.

§ 1260.206 Eligibility.

(a) *Eligible Producer.* Each person who was a producer at any time during the representative period is entitled to register and vote in the referendum. Each producer entity shall be entitled to cast only one ballot in the referendum.

(b) *Proxy Registration and Voting.* Proxy registration and voting is not authorized except that an officer or employee of a corporate producer, or any guardian, administrator, executor, or trustee of a producer's estate, or an authorized representative of any other producer entity may register and cast a ballot on behalf of such entity. Any individual registering to vote in the referendum on behalf of any producer entity shall certify that he is authorized by such entity to take such action.

(c) *Joint and Group Interest.* A group of individuals, such as members of a family, joint tenants, tenants in common, a partnership, owners of community property, or a corporation, engaged in the production of cattle as a producer entity shall be entitled to only one vote: *Provided, however*, That any member of a group may register to vote as a producer if he is an eligible producer separate from the group.

§ 1260.207 Registration.

(a) *Registration procedure.* Each producer desiring to vote in the referendum must register during the registration period with the county ASCS office serving the county in which his farm or ranch headquarters is located. An absentee producer who does not have a local headquarters may register and vote in any county where his cattle are located, but shall register and vote in only one such county. To register, a producer must complete a registration card, Form ASCS–151, during the registration period. Registration may be in person or by mail. A producer who wishes to register by mail may request the county ASCS office to mail him a registration card. A registration card shall be considered received during the registration period if (1) it was delivered in person to the county ASCS office prior to the close of business on the final day of the registration period, or (2) it was postmarked not later than midnight of the final day of the registration period, and was received in the county ASCS office prior to the close of business on the fourth day after the close of the registration period.

(b) *List of registered producers.* A list of registered producers shall be prepared and posted in a conspicuous public location at the county ASCS office on the fifth day after the close of the registration period. The list shall include all persons who submitted a valid registration card in a timely manner.

§ 1260.208 Voting.

(a) *Facilities and ballot box.* Each county ASCS office shall provide (1) adequate facilities and space to permit producers to mark their ballots in secret and (2) a sealed ballot box which shall be kept under observation during office hours and secured at all times until the ballots are counted.

(b) *Voting.* Voting may be in person or by mail. A producer wishing to vote by mail may request the county ASCS office to mail him a ballot. Ballots will be issued only to eligible cattle producers who have registered to vote. Ballots will not be provided nor accepted prior to the voting period. Each registered cattle producer voting shall obtain and cast his ballot on Form ASCS–151A with the county ASCS office where he registered to vote. The ballot shall be marked to indicate "yes" or "no" and must be signed by the producer. Producers voting in person shall place their own ballots in the ballot box. Ballots received by mail shall be placed promptly in the ballot box.

§ 1260.209 Challenge of eligibility.

(a) *Who may challenge.* A person's eligibility to register and vote may be challenged by any person. The county ASCS executive director shall review all registrations and promptly challenge any registrant who appears to be ineligible.

(b) *Determinations of challenges.* Any person whose eligibility to register and to vote has been challenged must prove to the satisfaction of the county ASCS executive director that he was a producer during the representative period. Records such as tax returns, sales documents, purchase documents, or other similar documents may be submitted to prove that a person is a producer. The county ASCS executive director shall make his determination concerning the eligibility of a producer who has been challenged as soon as practicable, and in all cases before the opening of the ballot box.

(c) *Challenged ballot.* A person whose eligibility to register or to vote has been challenged but not resolved by the county ASCS executive director or by the county ASCS committee, if on appeal, may be allowed to cast a ballot, but such ballot shall be considered a challenged ballot for the purpose of the referendum until a resolution of the challenge has been made. A challenged ballot shall be determined to have been resolved if no appeal is taken from the determination of the county ASCS executive director within the time allowed for appeal or there has been a determination by the county ASC committee after appeal.

(d) *Appeal.* Appeal from a decision by the county ASCS executive director on the eligibility of a person to register or to vote must be made to the county ASC committee within three business days after notification of such decision. An appeal shall be determined by the county ASC committee as soon as practicable, but in all cases not later than 5 days after the opening of the ballot box.

§ 1260.210 Receiving ballots.

A ballot shall be considered to have been received during the voting period (a) if it was cast in the county ASCS office prior to the close of business on the final day of the voting period, or (b) if mailed, the ballot was postmarked not later than midnight on the final day of the voting period and received in the county ASCS office prior to the close of business on the fourth day after the close of the voting period.

§ 1260.211 Canvassing ballots.

(a) *Counting the Ballots.* As soon as possible after opening of the county ASCS office on the fifth day after the close of the voting period, employees of the county ASCS office shall open the ballot box and count the ballots. The ballots shall be tabulated as follows: (1) number of eligible producers casting valid ballots, (2) number of producers favoring the order, (3) number of producers not favoring the order, (4) the number of challenged ballots deemed invalid, and (5) the number of spoiled ballots.

(b) *Spoiled Ballots.* Ballots shall be considered as spoiled ballots when they are unsigned, mutilated, or marked in such a way that it cannot be determined

whether it is a "yes" or "no" vote. Spoiled ballots shall not be considered as approving or disapproving the Order, or as a ballot cast in the referendum.

(c) *Confidentiality.* All ballots shall be treated as confidential and the contents of the ballots shall not be divulged except as provided for in this Subpart or as the Secretary may direct. The public may witness the opening of the ballot box and the counting of the ballots, but shall remain a reasonable distance from the tabulation so as not to interfere with the tabulation or see how any person voted in the referendum.

§ 1260.212 County ASCS office report.

(a) *Preliminary report.* The county ASCS office shall notify the State ASCS office by telephone, telegraph, or messenger as to the preliminary results of the referendum as soon as possible. Such report shall also include the total number of eligible producers that registered to vote in the referendum. Each county ASCS office may release the unofficial results of the referendum in its county after the report has been given to the State ASCS office.

(b) *Final report.* Within seven days after the opening of the ballot box, each county ASCS office shall transmit a written summary certified by the county ASCS executive director of the final results of the referendum in its county to the State ASCS office. Any appeal concerning a producer's eligibilty shall be resolved by the county ASC committee prior to the date of the final report. A copy of the summary shall be posted for 30 days in the county ASCS office in a conspicuous place accessible to the public and a copy shall be kept on file in the county ASCS office for a period of at least 12 months.

§ 1260.213 State ASCS office report.

(a) *Preliminary report.* Each State ASCS office shall send to the Deputy Administrator by telegraph as soon as possible a summary of the preliminary results of the referendum received from the county ASCS offices within its State. Such report shall also include the total number of eligible producers that registered to vote in the referendum. Each State ASCS office may release the unofficial results of the referendum in its State after its report has been sent to the Deputy Administrator.

(b) *Final report.* Within ten days after the opening of the ballot boxes in the county ASCS offices each State ASCS office shall transmit to the Deputy Administrator a written summary of the final results of the referendum received from the county ASCS offices within the State. Such summary shall be prepared in triplicate and certified by the State ASCS executive director. The orginal and one copy of the summary shall be sent to the Deputy Administrator. One copy of the summary shall be maintained in the State ASCS office where it shall be available for public inspection for a period of not less than 12 months.

§ 1260.214 Results of the referendum.

(a) The Deputy Administrator shall prepare and submit to the Secretary or his designee a report of the results of the referendum. The official results of the referendum shall be published in the FEDERAL REGISTER. State summaries and related papers shall be available for public inspection in the office of the Deputy Administrator, Programs, ASCS, U.S. Department of Agriculture, Room 243–W, Administration Building, Washington, D.C.

(b) If the Deputy Administrator or the Secretary deems it necessary, the report of any State or county shall be reexamined and checked by such persons that may be designated by the Deputy Administrator or the Secretary.

§ 1260.215 Disposition of ballots and records.

The county ASCS executive director shall place the registration cards, list of registrants, eligible voter lists, voted ballots, challenged registration cards and challenged ballots found to be ineligible, spoiled ballots, and county summaries in sealed containers marked with the identification of the referendum. Such records shall be placed under lock in a safe place under the custody of the county ASCS executive director for a period of not less than 12 months after the referendum. If no notice to the contrary is received from the Deputy Administrator by the end of such time, the records shall be destroyed.

§ 1260.216 Suspension and termination of order.

The Secretary of Agriculture may conduct a referendum at any time, and shall hold a referendum on request of 10 percent or more of the number of cattle producers voting in the referendum approving the Order, to determine whether such producers favor the termination or suspension of the Order, and he shall suspend or terminate such Order six months after he determines that suspension or termination of the Order is approved or favored by a majority of the producers voting in such referendum who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production of cattle, and who produced more than 50 percent of the volume of cattle produced by the producers voting in the referendum.

§ 1260.217 Instructions and forms.

The Deputy Administrator is hereby authorized to prescribe additional instructions and forms not inconsistent with the provisions of this Subpart to govern the conduct of the referendum.

Issued at Washington, D.C., this 11th day of April, 1977.

VICTOR A. SENECHAL,
Acting Administrator, Agricultural Stabilization and Conservation Service.

APRIL 8, 1977.

WILLIAM T. MANLEY,
Acting Administrator, Agricultural Marketing Service.

APRIL 11, 1977.

[FR Doc.77-11184 Filed 4-14-77;8:45 am]

FARM CREDIT ADMINISTRATION

[12 CFR Parts 611, 615, 618]

ASSOCIATION CHARTERS, FUNDING, AND FISCAL AFFAIRS

AGENCY: Farm Credit Administration.

ACTION: Proposed Rule.

SUMMARY: The Farm Credit Administration (FCA) is proposing amendments to its regulations relating to the terms of office of directors of Farm Credit associations, funding programs of Farm Credit banks and financially related service programs of Farm Credit associations. Based upon suggestions received by FCA, the amendments to the terms of office provisions are being made to simplify Farm Credit association director election procedures used when Farm Credit associations merge. The FCA has found a need for the amendments to the regulations on funding programs of Farm Credit banks to make the regulations more comprehensive. The amendment to the regulations on financially related service programs of Farm Credit associations is intended to correct a technical problem in the regulation.

COMMENT DATE: Written comments must be received on or before May 13, 1977.

ADDRESS: Submit any comments or suggestions in writing (10 copies) to Donald E. Wilkinson, Governor, Farm Credit Administration, Washington, D.C. 20578. Copies of all communications received will be available for examination by interested persons in the Office of Director, Information Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Jon F. Greeneisen, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, SW., Washington, D.C. 20578, 202–755–2181.

SUPPLEMENTARY INFORMATION: The Farm Credit Administration, by its Federal Farm Credit Board, has under consideration proposed amendments and additions to its regulations as set forth below in tentative form. These amendments and additions would (1) in the case of a merger of two or more Federal land bank associations or production credit associations, provide a basis for allowing directors of a merging association to serve as directors of the continuing association until the expiration of their terms, (2) set forth the authority of the Farm Credit banks to issue Farm credit securities, (3) define the responsibility of each bank's board of directors to authorize, by resolution, a bank to issue obligations up to a determined amount, (4) set forth the responsibilities of each Finance Committee, (5) require each Finance Committee to develop a debt maturity program, (6) require each bank's board of directors to adopt a debt management policy, (7) clarify the conditions under which Consolidated Systemwide Notes are issued, and (8) clarify

that a Farm Credit bank board's approval for an association to offer a financially related service program shall be conditioned on the probability of recovery of all direct and indirect costs.

Chapter VI of Title 12 of the Code of Federal Regulations is proposed to be amended by revising § 611.1120(a)(1); renumbering §§ 615.5100, 615.5101, 615.5102, 615.5103, and 615.5104 to be §§ 615.5101, 615.5106, 615.5107, 615.5108, 615.5109 respectively; adding § 615.5100; revising § 615.5101; adding §§ 615.5102, 615.5103, 615.5104, and 615.5105; and revising § 618.8010(d) and (d)(3). These amendments and additions are as follows:

PART 611—ORGANIZATION

1. Section 611.1120(a)(1) is revised to read:

§ 611.1120 Amendments of association charters.

(a) * * *

(1) The agreement for merger or consolidation shall include the proposed effective date; the proposed name and location of the continuing or consolidated association; the designation of the charter and bylaws of one constituent association to be those of the continuing or consolidated association; the names of persons nominated to serve as directors until the first annual meeting after the merger or consolidation (in case of a merger, present directors of the merging associations may be named in the merger agreement to serve as directors of the continuing association until the expiration of their terms, provided, the number of directors so named does not exceed the maximum number of directors designated in the association's bylaws, and provided further, the directors so named are currently serving terms of office which will expire on a staggered basis in order to assure that there will be an election of director(s) at the first and subsequent annual stockholders' meetings following the merger); the authority for transferring assets to and assumption of liabilities by the continuing or consolidated association; provision relating to the stock of the constituent associations and the stock of the continuing or consolidated association, provided no fractional shares of stock shall be issued; and the designation of persons and granting of authority to carry out the agreement, including authority to execute any documents necessary to perfect title.

* * * * *

PART 615—FUNDING AND FISCAL AFFAIRS

2. Sections 615.5100, 615.5101, 615.5102, 615.5103 and 615.5104 are renumbered §§ 615.5101, 615.5106, 615.5107, 615.5108 and 615.5109 respectively; § 615.5100 is added; § 615.5101 is revised; §§ 615.5102, 615.5103, 615.5104, and 615.5105 are added to read as follows:

§ 615.5100 Authority to issue.

(a) The Farm Credit Act of 1971 authorizes, by appropriate resolution of individual bank boards of directors, the twelve Federal intermediate credit banks, the twelve Federal land banks and the thirteen banks for cooperatives: to issue notes, bonds, debentures or other similar obligations individually, fully collateralized; to join with any or all banks organized and operating under the same title of the Farm Credit Act in issuance of consolidated obligations; and to join with other banks of the Farm Credit System in the issuance of Systemwide obligations.

(b) Systemwide obligations are authorized to be issued only with the concurrence by appropriate resolutions of the boards of directors of each of the twelve districts and the Central Bank for Cooperatives and the approval of the Governor, which approval is conditioned on and evidenced by such concurrence.

(c) All joint, consolidated and Systemwide obligations are authorized to be issued in such amounts, maturities, rates of interest, participations, terms and conditions as may be determined by the Finance Committees of the banks or their subcommittees and approved by the Governor.

§ 615.5101 Resolution required.

Each bank's board of directors shall by resolution authorize the issuance of notes, bonds, debentures, and similar obligations in such amounts as may be required to meet bank's needs. Such resolution shall specify the maximum amount of obligations which shall be outstanding at any one time, shall authorize the president of the bank, the executive committee or appropriate officers to do all things necessary and proper to issue such obligations and shall authorize the Governor to execute the consolidated and Systemwide obligations on behalf of the bank. Each such resolution shall cover all authorities to issue or borrow as stated in section 4.2 of the Farm Credit Act of 1971.

§ 615.5102 Finance Committee.

Each Finance Committee for the banks organized and operating under the separate titles of the Farm Credit Act of 1971 shall appoint appropriate subcommittees and establish its organization, responsibilities and procedures to cover its operations and those of its subcommittees, subject to the approval of the Farm Credit Administration.

§ 615.5103 Debt maturity program.

Each Finance Committee of a banking system shall develop a system debt maturity program, to assure that funding programs provide flexibility for the banks and are sound in the view of the capital markets, subject to the approval of the Farm Credit Administration.

§ 615.5104 Debt policy.

Each bank's board of directors shall adopt a policy, subject to approval by the Farm Credit Administration, regarding the management of its debt.

§ 615.5105 Consolidated systemwide notes.

Consolidated Systemwide Notes authorized under § 615.5100(b) shall be subject to the following provisions unless otherwise approved by the Farm Credit Administration:

(a) Maturities shall be not less than five days nor more than 365 days.

(b) Prices shall be on a discount yield basis or as agreed by the Finance Committees.

(c) Each bank shall maintain unencumbered formalized lines of credit from commerical banks or other financial institutions at least equal to one-third of its participation of notes outstanding.

PART 618—GENERAL PROVISIONS

3. In § 618.8010 paragraphs (d) introductory text, and (d) (3) are revised to read as follows:

§ 618.8010 District board policies.

* * * * *

(d) Bank board approval to offer a financially related service program shall be conditioned on a feasibility determination including the following four criteria:

* * * * *

(3) Probability of equitable cost recovery—based on a reasonable presumption that the proposed service program will, at the minimum, generate sufficient revenue to cover all direct and indirect costs. In any case, a service program requiring a substantial subsidization from or interference with the lending function shall not be permitted.

C. K. CARDWELL,
Acting Governor
Farm Credit Administration.

[FR Doc.77-11112 Filed 4-14-77;8:45 am]

DEPARTMENT OF COMMERCE

Office of the Secretary

[15 CFR Parts 803 and 806]

UNAFFILIATED FOREIGN RESIDENTS AND DIRECT INVESTMENT SURVEYS

Reports on International Transactions in Royalties and Fees

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes rules to implement the duties and responsibilities of the President under the International Investment Survey Act of 1976. Those duties and responsibilites were delegated to the Secretary of Commerce in Executive Order 11961. The Act authorizes studies and mandatory surveys of U.S. direct investment abroad and foreign direct investment in the United States. This document also proposes amendments to present regulations which would be necessary if the new rules are adopted.

DATES: Comments must be received on or before May 16, 1977.

ADDRESSES: Send comments to: U.S. Department of Commerce, Bureau of Economic Analysis, International Invest-

ment Division (BE-50), Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

George R. Kruer, Chief, International Investment Division, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230 (202 523-0657).

SUPPLEMENTARY INFORMATION: On October 11, 1976, the President signed the International Investment Survey Act of 1976 (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108—hereinafter "the Act") which provides authority for the collection and analysis of data relating to international investment and its effect on the national security, commerce, employment, inflation, general welfare, and foreign policy of the United States.

Section 5(a) of the Act authorizes the promulgation of such rules and regulations as may be necessary to carry out the purposes of the Act.

In Section 3 of Executive Order 11961 of January 19, 1977, the President delegated the authority granted under the Act as concerns direct investment to the Secretary of Commerce, "* * * in the absence of any contrary delegation or direction by the Director * * *" of the Office of Management and Budget, and the Secretary of Commerce has redelegated this authority to the Bureau of Economic Analysis (BEA).

Notice is hereby given that, pursuant to the Act, the Secretary of Commerce proposes to promulgate regulations concerning U.S. direct investment abroad and foreign direct investment in the United States whereby (1) surveys presently conducted under the authority of the Bretton Woods Agreements Act, title 22 U.S.C., section 286(f), Executive Orders 10033 and 11269, and title 15 U.S.C., section 1516 (see 15 CFR Part 803), will now be conducted pursuant to the Act; (2) surveys previously conducted on a voluntary basis will be made mandatory; (3) certain changes in exemption levels and reporting requirements will be instituted; (4) three new report forms will be adopted; and (5) reporting requirements for a Benchmark Survey of U.S. Direct Investment Abroad covering 1976 will be instituted.

Adoption of item (1) above necessitates that the present regulations contained in 15 CFR Part 803 be amended. The amended Part 803 will cover only the reporting of International Transactions in Royalties and Fees With Unaffiliated Foreign Residents; no change is made with respect to the current reporting requirements for these items. The amendment is being made solely to accommodate the removal of the regulations on U.S. direct investment abroad and foreign direct investment in the United States from 15 CFR Part 803, and to substitute the new regulations found in new Part 806.

More specifically, as concerns foreign direct investment in the United States (see new part 806) the changes are as follows:

(1) Exemption levels, previously stated in terms of the book value of the foreign parent's holdings or investment in its U.S. affiliate, will now be stated in terms of the size of the U.S. affiliate's assets, net sales, and net income. (See § 806.15 (d) and (e)).

(2) A new quarterly report form, BE-609, Direct Transactions of U.S. Affiliate With Foreign Affiliates of Foreign Parent, will be adopted for reporting transactions between a U.S. affiliate and all foreign affiliates of the foreign parent. Also, an exemption level is set for the reporting of such transactions. Previously, separate reports were required for transactions between the U.S. affiliate and each foreign affiliate of the foreign parent, and no formal exemption level was set. (See § 806.15(e)(4).)

(3) Current forms will be revised to include data on leasing transactions between U.S. affiliates and their foreign parents. A recently completed survey of leasing transactions for the year 1975 indicated that a separate survey form covering such transactions was not warranted and that they could best be covered by minor changes to the present forms. As concerns U.S. direct investment abroad (see new Part 806) the changes and additions are as follows:

(1) Exemption levels previously stated in terms of the U.S. Reporter's investment in all foreign affiliates, the book value of the Reporter's holdings or investment in each foreign affiliate, or the value of certain transactions, will now be stated in terms of the size of each foreign affiliate's assets, net sales, and net income. (See § 806.14 (d), (e), (f), and (g).)

(2) A new report form, BE-507, Industry Classification Questionnaire, will be adopted in order to classify correctly and systematically U.S. Reporters and foreign affiliates who are reported for the first time or whose industrial classification changes in the years following a benchmark survey. (See § 806.14(g)(1).)

(3) Forms BE-577, BE-578, BE-578B, and BE-577S have been redesigned to facilitate entering and processing the data; a few items have been added or changed, including the addition of items on leasing transactions between U.S. Reporters and their foreign affiliates; and on the BE-577S, numerous data items have been deleted.

(4) Forms BE-577A, Transactions With Associated Foreign Enterprises, will be eliminated. This was an annual report form for foreign affiliates 10 to 24 percent U.S.-owned. These affiliates will now be required to be reported quarterly on forms BE-577, BE-578, or BE-578B, as appropriate, providing they are above the exemption level.

(5) Forms BE-133, BE-133B, and BE-133C, previously voluntary, will be made mandatory. However, in order to maintain continuity of the data series, the sample of U.S. Reporters will remain constant for a short period pending development of a method for selecting a new sample of Reporters. (See § 806.14 (f).)

(6) Rules and regulations for the BE-10 Benchmark Survey of U.S. Direct Investment Abroad, mandated by the Act, are provided below and 1976 is designated as a year to be covered by the survey. This is a major undertaking that involves a significant reporting burden. (See §§ 806.14(g)(2) and 806.15.)

All comments received on or before May 16, 1977, will be considered. All comments, material, questions, etc. in response to this proposal will be available for public inspection during normal business hours, 8:30 a.m. to 5 p.m., in Room 608, 1401 K Street NW., Washington, D.C.

It is therefore proposed to modify Part 803, 15 CFR, and add Part 806 to 15 CFR, as set forth below.

The Department of Commerce has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: April 11, 1977.

JUANITA M. KREPS,
Secretary of Commerce.

1. It is proposed to revise Part 803 as follows:

PART 803—REPORTS ON INTERNATIONAL TRANSACTIONS IN ROYALTIES AND FEES WITH UNAFFILIATED FOREIGN RESIDENTS

Sec.

803.1 Purpose.
803.2 Who must report.
803.3 Form to be used, frequency of reports, and place of filing.
803.4 Exemptions.
803.5 General definitions.

AUTHORITY: Reports on Form BE-93 are mandatory under Section 8(b) of the Bretton Woods Agreements Act (59 Stat. 515, 22 U.S.C. 286f). All replies will be held in confidence under the provisions of Section 8(c) of that Act (22 U.S.C. 286f(c)) and Section 4(b) of the Federal Reports Act (44 U.S.C. Section 3509).

§ 803.1 Purpose.

Reports on Form BE-93 are required in order to provide reliable and up-to-date information on international transfers of intangible assets and proprietary rights with unaffiliated foreign residents for use in compiling the U.S. balance of payments.

§ 803.2 Who must report.

United States individuals and firms who have entered into agreements with unaffiliated foreign residents, including governments of foreign countries, to sell or buy outright or provide or be provided with the use of intangible assets or rights such as patents, techniques, processes, formulae, designs, trademarks, copyrights, franchises, manufacturing rights, film rentals, and other similar intangible property or rights shall report on Form BE-93.

NOTE.—Oil royalties and other natural resources (mining) royalties are not reportable on this form.

§ 803.3 Form to be used, frequency of reports, and place of filing.

(a) One Form BE–93 is to be filed annually by each United States person or firm receiving from unaffiliated foreign residents, or paying to unaffiliated foreign residents, royalties, licensing fees, film rentals, etc., arising from the use, purchase, or sale of intangible assets or rights. Reports should be sent to the Department of Commerce, Bureau of Economic Analysis, BE–58, Washington, D.C. 20230 within 90 days after the close of the calendar or fiscal year.

(b) Requests for extension of the filing dates, additional forms, or clarifications of the reporting requirements or instructions should be directed to the same address.

(c) Consolidated reports for each company and its domestic affiliates are preferred. Please list on an attachment names of affiliates whose transactions are consolidated on this form. Also list names of affiliates with reportable transactions not consolidated on this form.

§ 803.4 Exemption.

A U.S. individual or business firm otherwise required to report is exempted if his annual foreign receipts and payments, combined, of the types covered by Form BE–93, are less than $25,000 in the year covered by the report.

§ 803.5 General definitions.

(a) *U.S. resident*—Any person, including corporations, unincorporated business organizations, partnerships, individuals, trusts and estates, under the jurisdiction of the U.S. and ordinarily residing in the U.S., including territories and possessions.

(b) *U.S. subsidiary or affiliate*—For purposes of this statistical report, any U.S. incorporated enterprise in which more than 50 percent of the voting stock is directly or indirectly held by another U.S. Company.

(c) *Unaffiliated foreign resident, means:* (1) With reference to ownership by a U.S. resident in a foreign business enterprise, any enterprise in which the U.S. resident holds less than 10 percent, directly or indirectly of the voting stock if an incorporated foreign enterprise, or an equivalent interest if an unincorporated enterprise; and

(2) With reference to ownership in a U.S. business enterprise by a foreign resident, any enterprise in which the foreign resident holds less than 10 percent, directly or indirectly, of the voting stock if an incorporated U.S. enterprise, or an equivalent interest if an unincorporated U.S. enterprise.

2. It is proposed to add Part 806 as follows:

PART 806—DIRECT INVESTMENT SURVEYS

Sec.

806.1 Purpose.
806.2 Recordkeeping requirements.
806.3 Reporting requirements.
806.4 Confidentiality.
806.5 Penalties.
806.6 General definitions.
806.7 Real Estate.
806.8 Airlines and ship operators.
806.9 Determining place of residence and country of jurisdiction of individuals.
806.10 Response required when contacted.
806.11 Estates, trusts, and intermediaries.
806.12 Partnerships.
806.13 Miscellaneous.
806.14 U.S. direct investment abroad.
806.15 Foreign direct investment in the United States.
806.16 Rules and regulations for BE–10, Benchmark Survey of U.S. Direct Investment Abroad.
806.17 Rules and regulations for BE–12, Benchmark Survey of Foreign Direct Investment in the United States.

AUTHORITY: The provisions of this Part 806 are issued under 5 U.S.C. 301, 22 U.S.C. 3101, and Executive Order 11961.

§ 806.1 Purpose.

The purpose of this Part is to set forth the rules and regulations necessary to carry out the data collection program and analyses concerning direct investment as required by, or provided for in, the International Investment Survey Act of 1976 (Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101 to 3108), hereinafter "the Act". The overall purpose of the Act is to provide comprehensive and reliable information pertaining to international investment, including direct investment, and to do so with a minimum of burden on respondents and with no unnecessary duplication of effort.

§ 806.2 Recordkeeping requirements.

In accordance with section 5(b)(1) of the Act (22 U.S.C. 3104) persons subject to the jurisdiction of the United States shall maintain any information (including journals or other books of original entry, minute books, stock transfer records, lists of shareholders, or financial statements) which is essential for carrying out the surveys and studies provided for by the Act.

§ 806.3 Reporting requirements.

In accordance with section 5(b)(2) of the Act (22 U.S.C. 3104) persons subject to the jurisdiction of the United States shall furnish, under oath, any report containing information which is determined to be necessary to carry out the surveys and studies provided for by the Act.

§ 806.4 Confidentiality.

Information collected pursuant to § 806.3 of this chapter is confidential (see section 5(c) of the Act, 22 U.S.C. 3104).

(a) Access to this information shall be available only to officials and employees (including consultants and contractors and their employees) of agencies designated by the President to perform functions under the Act.

(b) Subject to § 806.4(d) of this part, the President may authorize the exchange of information between agencies or officials designated to perform functions under the Act.

(c) Nothing in this Part shall be construed to require any Federal Agency to disclose information otherwise protected by law.

(d) This information shall be used solely for analytical or statistical purposes or for a proceeding under § 806.5 of this chapter.

(e) No official or employee (including consultants and contractors and their employees) shall publish or make available to any other person any information collected under the Act in such a manner that the person to whom the information relates can be specifically identified.

(f) Reports and copies of reports prepared pursuant to the Act are confidential and their submission or disclosure shall not be compelled by any person without the prior written permission of the person filing the report and the customer of such person where the information supplied is identifiable as being derived from the records of such customer.

§ 806.5 Penalties.

(a) Whoever fails to furnish any information required by the Act or required by § 806.3 of this chapter or to comply with any other rule, regulation, order or instruction promulgated under the Act may be subject to a civil penalty not exceeding $10,000 in a proceeding brought in an appropriate United States court and to injunctive relief commanding such person to comply, or both (see section 6 (a) and (b) of the Act, 22 U.S.C. 3105).

(b) Whoever willfully fails to submit any information required by the Act or required by § 806.3 of this chapter or willfully violate any other rule, regulation, order or instruction promulgated under the Act, upon conviction, shall be fined not more than $10,000 and, if an individual, may be imprisoned for not more than one year, or both. Any officer, director, employee, or agent of any corporation who knowingly participates in such violation, upon conviction, may be punished by a like fine, imprisonment, or both (See section 6(c) of the Act 22 U.S.C. 3105).

(c) Any person who willfully violates § 806.4 of this chapter relating to confidentiality, shall, upon conviction, be fined not more than $10,000, in addition to any other penalty imposed by law (see section 5(d) of the Act, 22 U.S.C. 3104).

§ 806.6 General definitions.

(a) "United States," when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and all territories and possessions of the United States.

(b) "Foreign", when used in a geographic sense, means that which is situated outside the United States or which belongs to or is characteristic of a country other than the United States;

(c) "Person" means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Gov-

ernment, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government sponsored agency);

(d) "United States person" means any person resident in the United States or subject to the jurisdiction of the United States;

(e) "Foreign person" means any person resident outside the United States or subject to the jurisdiction of a country other than the United States;

(f) "Business enterprise" means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage, and any ownership of any real estate;

(g) "Parent" means a person of one country who, directly or indirectly, owns or control 10 per centum or more of the voting stock of an incorporated business enterprise, or an equivalent ownership interest in an unincorporated business enterprise, which is located outside that country;

(h) "Affiliate" means a business enterprise located in one country which is directly or indirectly owned or controlled by a person of another country to the extent of 10 per centum or more of its voting stock for an incorporated business or an equivalent interest for an unincorporated business, including a branch;

(i) "International investment" means (1) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by foreign persons of any interest in property in the United States, or of stock, other securities, or short- and long-term debt obligations of a United States person, and (2) the ownership or control, directly or indirectly, by contractual commitment or otherwise, by United States persons of any interest in property outside the United States, or of stock, other securities, or short- and long-term debt obligations of a foreign person;

(j) "Direct investment" means the ownership or control, directly or indirectly, by one person of 10 per centum or more of the voting securities of an incorporated business enterprise or an equivalent interest in an unincorporated business enterprise;

(k) "Portfolio investment" means any international investment which is not direct investment;

(l) "Associated group" means two or more persons who, by the appearance of their actions, by agreement, or by an understanding, exercise their voting privileges in a concerted manner to influence the management of a business enterprise. Each of the following are deemed to be an associated group:

(1) Members of the same family,

(2) A business enterprise and one or more of its officers and directors,

(3) Members of a syndicate or joint venture, or

(4) A corporation and its domestic subsidiaries;

(m) "Branch" means the operations or activities conducted by a person in a different location in its own name rather than through an incorporated entity; and

(n) "Intermediary" means an agent, nominee, manager, custodian, a trust as described in § 806.11(b)(2) of this chapter, or any person acting in a similar capacity.

§ 806.7 Real estate.

Real estate held exclusively for personal use and not for profit-making purposes, is exempted from being reported. A residence which is leased by an owner who intends to reoccupy it, is considered real estate held for personal use. If a business enterprise, otherwise required to report, is in the form of real property not identifiable by name, reports are required to be filed by and in the name of the beneficial owner, or in the name of such beneficial owner by the intermediary of such beneficial owner.

§ 806.8 Airlines and ship operators.

Foreign stations, ticket offices, and terminal and port facilities of U.S. airlines and ship operators; and U.S. stations, ticket offices, and terminal and port facilities of foreign airlines and ship operators; which provide services only to their own operations are exempted from being reported. Reports are required when such affiliates produce significant revenues from services provided to unaffiliated persons.

§ 806.9 Determining place of residence and country of jurisdiction of individuals.

An individual will be considered a resident of, and subject to the jurisdiction of, the country in which physically located, subject to the following qualifications:

(a) Individuals who reside, or expect to reside, outside their country of citizenship for less than one year are considered to be residents of their country of citizenship.

(b) Individuals who reside, or expect to reside, outside their country of citizenship for one year or more are considered to be residents of the country in which they are residing, except as provided in § 806.9(c) of this part.

(c) Notwithstanding paragraph (b), if an owner or employee of a business enterprise resides outside the country of location of the enterprise for one year or more for the purpose of furthering the business of the enterprise, and the country of the business enterprise is the country of citizenship of the owner, then such owner or employee shall nevertheless be considered a resident of the country of citizenship provided there is the intent to return within a reasonable period of time.

(d) Individuals and members of their immediate families who are residing outside their country of citizenship as a result of employment by the government of that country—diplomats, consular officials, members of the armed forces, etc.—are considered to be residents of their country of citizenship.

§ 806.10 Response required.

Reports, as specified below, are required from all persons coming within the reporting requirements, whether or not they are contacted by BEA. In addition, any person contacted in writing by BEA concerning the person's being subject to the reporting requirements of a survey conducted pursuant to this Part must respond in writing. The response must be made by filing the properly completed survey form, or by submitting in writing a valid exemption claim (including the situation where the statistical data requested on the form are not applicable), or by certifying in writing to the fact that the person has no direct investments within the purview of the Act or the regulations contained herein. This requirement is necessary to ensure compliance with reporting requirements and efficient administration of the Act.

§ 806.11 Estates, trusts, and intermediaries.

(a) An estate, either U.S. or foreign, is a person and therefore may have direct investment, and the estate, not the beneficiary, is considered to be the parent. Thus, ownership of a foreign affiliate by a U.S. estate shall be reported by the administrator, executor, etc., of the estate and not by the beneficiary.

(b) A trust, either U.S. or foreign, is a person, but is not a business enterprise. For direct investment purposes, a trust may be considered either a parent or an intermediary depending on whether the trust is revocable or irrevocable and whether the settlor(s), creator(s) and beneficiaries of the trust have control over the activities of the trust.

(1) Where a trust is irrevocable and the creator(s) and the beneficiary(ies) of the trust have no control over the activities of the trust, then the existence of direct investment shall be determined in reference to the trust instrument, and the trust shall be considered to be the parent as concerns any direct investment activity. Such investment shall be reported in the name of the trust and not its creator(s) or beneficiary(ies).

(2) Where a trust is revocable or the creator(s) or beneficiary(ies) of the trust in fact exercise, or may exercise, some control over the activities of the trust, then the existence of direct investment shall be determined in reference to the creator(s) or beneficiary(ies) of the trust and the creator(s) and/or beneficiary(ies) shall be considered to be the parent(s) as concerns any direct investment activity. The trust shall be considered the same as an intermediary and reporting should be as outlined in paragraph (c) of this section.

(c) *Intermediary.* (1) If a particular U.S. direct investment abroad is held, exercised, administered, or managed by a U.S. intermediary, such intermediary shall be responsible for reporting the required information for, and in the name of, its principal or shall instruct the principal to submit the required informa-

tion. Upon instructing the principal, the intermediary shall be released from further liability provided it has informed this Bureau of the date such instructions were given and the name and address of the principal, and has supplied the principal with any information in the possession of, or which can be secured by, the intermediary, that is necessary to permit the principal to complete the required reports. When acting in the capacity of an intermediary, the accounts or transactions of the U.S. intermediary with the foreign affiliate shall be considered as accounts or transactions of the U.S. beneficial owner with the foreign affiliate.

(2) If a U.S. person holds a foreign affiliate through a foreign intermediary, the U.S. person will be considered to own the foreign affiliate directly and all accounts or transactions of the U.S. person with the intermediary will be considered to be with the foreign affiliate.

(3) If a particular foreign direct investment in the United States is held, exercised, administered, or managed by a U.S. intermediary for the foreign beneficial owner, such intermediary shall be responsible for reporting the required information for, and in the name of, the U.S. affiliate, and shall report on behalf of the U.S. affiliate or shall instruct the U.S. affiliate to submit the required information. Upon so instructing the U.S. affiliate, the intermediary shall be released from further liability provided it has informed this Bureau of the date such instructions were given and the name and address of the U.S. affiliate, and has supplied the U.S. affiliate with any information in the possession of, or which can be secured by, the intermediary that is necessary to permit the U.S. affiliate to complete the required reports. When acting in the capacity of an intermediary, the accounts or transactions of the U.S. intermediary with a foreign beneficial owner shall be considered as accounts or transactions of the U.S. affiliate with the foreign beneficial owner.

(4) If a foreign beneficial owner holds a U.S. affiliate through a foreign intermediary, the U.S. affiliate may report the intermediary as its foreign parent but, when requested, must also identify and furnish information concerning the foreign beneficial owner, if known, or if such information can be secured. Accounts or transactions of the U.S. affiliate with the foreign intermediary shall be considered as accounts or transactions of the U.S. affiliate with the foreign beneficial owner.

§ 806.12 Partnerships.

Limited partners do not have voting rights in a partnership and therefore cannot have a direct investment in a partnership; their investment is considered to be portfolio investment. Determination of the existence of direct investment in a partnership shall be based on the country of residence of, and the percentage control exercised by, the general partner(s), although this may differ from the general partner(s)' percentage financial interest.

§ 806.13 Miscellaneous.

(a) *Accounting methods and records.* Generally accepted U.S. accounting principles should be followed. Corporations should generally use the same methods and records that are used to generate reports to stockholders. Two important exceptions are that, regardless of the respondent's normal accounting practice, (1) the equity method must be used for certain items and (2) unrealized gains (losses) must be reflected in the income statement items. Reports for unincorporated persons must be generated on an equivalent basis.

(b) *Annual stockholder's report.* Business enterprises issuing annual reports to stockholders are requested to furnish a copy of their annual reports to this Bureau.

(c) *Required information not available.* All reasonable efforts should be made to obtain information required for reporting. Every question on each form should be answered, except where specifically exempted. When only partial information is available, an appropriate indication should be given.

(d) *Estimates.* If actual figures are not available, estimates should be supplied and labelled as such. When data items cannot be fully subdivided as required, totals and an estimated percentage breakdown of the total should be supplied.

(e) *Specify.* When "specify" is included in certain data items, the type and dollar amount of the major items included must be given for at least the items mentioned in the line instruction.

(f) *Space on form insufficient.* When space on a form is insufficient to permit a full answer to any item, the required information should be submitted on supplementary sheets, appropriately labeled and referenced to the item number and the form.

(g) *Extensions.* Requests for an extension of a reporting deadline will not normally be granted. However, in hardship cases, written requests for an extension will be considered provided they are received 15 days prior to the date of the report and enumerate substantive reasons necessitating the extension.

(h) *Number of copies.* A single original copy of each report shall be filed with the Bureau of Economic Analysis. In addition, each respondent should retain a copy of its report.

(i) *Other.* Instructions concerning filing dates, where to send reports, and whom to contact concerning a given report are contained on each form. General inquiries should be directed to the—

U.S. Department of Commerce, Bureau of Economic Analysis, International Investment Division (BE-50), Washington, D.C. 20230.

§ 806.14 U.S. direct investment abroad.

(a) *Specific definitions.* (1) "U.S. direct investment abroad" means the ownership or control, directly or indirectly, by one U.S. person of 10 per centum or more of the voting securities of an incorporated foreign business enterprise or an equivalent interest in an unincorporated foreign business enterprise, including a branch.

(2) "U.S. Reporter" means the U.S. person which has direct investment in a foreign business enterprise, including a branch. (If the U.S. person is an incorporated business enterprise, the U.S. Reporter is the fully consolidated U.S. domestic enterprise, consisting of (i) the U.S. corporation which is not owned to the extent of more than 50 per centum of its stock by another U.S. corporation, and (ii) proceeding down each ownership chain from this first U.S. corporation, any U.S. corporation whose voting stock is more than 50 per centum owned by the U.S. corporation above it.)

(3) "Foreign affiliate" means an affiliate located outside the United States in which a U.S. person has direct investment.

(4) "Majority-owned foreign affiliate" means a foreign affiliate in which the combined direct investment interest of all U.S. Reporters of the affiliate exceeds 50 per centum.

(b) *Consolidation of foreign affiliates.* In cases where the recordkeeping system of the foreign affiliates makes it impossible or extremely difficult to file a separate report for each foreign affiliate, a U.S. Reporter may consolidate affiliates in the same country when the following conditions apply:

(1) The affiliates are in the same BEA 3-digit industry as defined in Industry Classifications and Export and Import Trade Classifications Booklet; or

(2) The affiliates are integral parts of the same business operation. For example, if German affiliate A manufactures tires and a majority of its sales are to German affiliate B which produces autos, then affiliates A and B may be consolidated. Any affiliates consolidated shall thereafter be considered to be one affiliate and should be consolidated in the same manner for all reports required to be filed pursuant to this section.

(c) *Reports required.* The place and time for filing, and specific instructions and definitions relating to, a given report form are given on the form. Reports are required even though a foreign affiliate may have been established, acquired, seized, liquidated, expropriated, sold, or inactivated during the reporting period.

(d) *Exemption levels.* Exemption levels for individual report forms will normally be stated in terms of total assets, net sales or gross operating revenues excluding sales taxes, and net income after income taxes, whether positive or negative. For a given affiliate, if any one of the three items exceeds the exemption level and if the statistical data requested in the report are applicable to the affiliate, then a report must be filed for the affiliate (see, however, § 806.10). Since these items may not have to be reported on a given form, a U.S. Reporter claiming exemption from filing a given form must furnish a certification as to the levels of the items on which the exemption is based or must certify the data requested are not applicable. The exemption-level tests for a given affiliate shall be applied as outlined below.

(1) For quarterly report forms, as to the assets test, reports shall be required for any quarter in which assets exceed the exemption level; as to the test for sales (revenues) and net income after income taxes, reports shall be required for a year in which the annual amount of these items exceeds or can be expected to exceed, the exemption level. Quarterly reports for a year may be required retroactively when it is determined that the exemption level has been exceeded. If a foreign affiliate's sales or net income exceed the exemption level in a given year, the presumption is that the exemption level will also be exceeded in the following year.

(2) For report forms requesting annual data after the close of the year in question, the test shall be whether any one of the three items exceeded the exemption level during that year.

(3) For the semi-annual plant and equipment expenditures survey, which requests actual data for the past year and/or annual projections for the current and following year, the test will be made for each year as to whether any one of the three items exceeded, or is expected to exceed, the exemption level; data must be reported only for the year or years in which the exemption level is, or is expected to be, exceeded.

The number and title of each report form, its exemption level, and other reporting criteria, if any, pertaining to it, are given below.

(e) *Quarterly report forms.* (1) BE–577—Direct Transactions of U.S. Reporter With Foreign Affiliate Incorporated Abroad: One report is required for each foreign affiliate exceeding an exemption level of $750,000.

(2) BE–578—Transactions of U.S. Reporter With Unincorporated Foreign Affiliate, Except a Bank: One report is required for each foreign affiliate exceeding an exemption level of $750,000.

(3) BE–578—Transactions of U.S. Reporter With Unincorporated Foreign Banking Affiliate: One report is required for each foreign banking affiliate exceeding an exemption level of $750,000.

(f) *Annual report forms.* (1) BE–133—Sources and Applications of Funds of U.S. Direct Investments Abroad: One report is required for each majority-owned foreign affiliate exceeding an exemption level of $8,000,000.

NOTE.—This survey will not be conducted for the year for which a BE–10 Benchmark Survey of U.S. Investment Abroad is conducted.

(2) BE–133B—Follow-up Schedule of Expenditures for Property, Plant and Equipment of U.S. Direct Investment Abroad: This is a schedule-type report form on which each majority-owned foreign affiliate exceeding an exemption level of $8,000,000 must be listed and the requested data given for each.

(3) BE–133C—Schedule of Expenditures for Property, Plant, and Equipment of U.S. Direct Investment Abroad: This is a schedule-type report form on which each majority-owned foreign affiliate exceeding an exemption level of $8,000,000 must be listed and the requested data given for each.

(4) BE–577S—U.S. Reporter's Directly-Owned Foreign Affiliate's Share in Net Income of Indirectly-Owned Foreign Affiliates: This is a schedule type report form on which each indirectly-owned foreign affiliate exceeding an exemption level of $2,000,000, based only on net income (whether positive or negative), must be listed and the requested data given for each. A further qualification is that reporting is required only if both the directly- and the indirectly-owned foreign affiliates are incorporated.

(g) *Other report forms.* (1) BE–507—Industry Classification Questionnaire: In general, U.S. Reporters and their foreign affiliates will each be assigned a BEA 3-digit industry code in the BE–10 Benchmark Surveys required by the Act to be conducted at least once every five years. However, interim reports on Form BE–507 are required:

(i) For each foreign affiliate newly established or acquired by a U.S. person on or after January 1, 1977; or

(ii) For each U.S. person who becomes a U.S. Reporter on or after January 1, 1977 by virtue of establishing or acquiring a foreign affiliate; or

(iii) For an existing foreign affiliate or U.S. Reporter whose industry classification changed on or after January 1, 1977 and for which either a previous BE–507 report or the BE–10 report required to be filed for 1976 does not accurately reflect the current industry classification of the entity.

For new U.S. Reporters or foreign affiliates, the BE–507 report should be submitted with the initial filing of the related BE–577, BE–578, BE–578B, or BE–577S report. For an existing U.S. Reporter or foreign affiliate, reports should be filed whenever it is determined that a change from one 3-digit industry classification to another has occurred.

(2) BE–10—Benchmark Survey of U.S. Direct Investment Abroad: Section 4b of the Act (22 U.S.C. 3103) provides that a comprehensive benchmark survey of U.S. direct investment abroad shall be conducted at least once every five years. The survey, referred to as the "BE–10," consists of Form BE–10A for reporting information concerning the U.S. Reporter and Form BE–10B for reporting information concerning each foreign affiliate. Specific requirements for, and the year of coverage of, each BE–10 Survey are given in § 806.16.

§ 806.15 Foreign direct investment in the United States.

(a) *Specific definitions.* (1) "Foreign direct investment in the United States" means the ownership or control, directly or indirectly, by one foreign person of 10 per centum or more of the voting securities of an incorporated U.S. business enterprise or an equivalent interest in an unincorporated U.S. business enterprise, including a branch.

(2) "U.S. affiliate" means an affiliate located in the United States in which a foreign person has a direct investment.

(3) "Foreign parent" means the foreign person, or the first person outside the United States in a foreign chain of ownership, which has direct investment in a U.S. business enterprise, including a branch.

(4) "Affiliated foreign group" means (i) the foreign parent, (ii) any foreign person, proceeding up the foreign parent's ownership chain, which owns more than 50 per centum of the person below it up to and including that person which is not owned more than 50 per centum by another foreign person, and (iii) any foreign person, proceeding down the ownership chain(s) of each of these members, which is owned more than 50 per centum by the person above it.

(5) "Foreign affiliate of foreign parent" means, with reference to a given U.S. affiliate, any member of the affiliated foreign group owning the affiliate that is not a foreign perent of the affiliate.

(6) "Majority-owned U.S. affiliate" means a U.S. affiliate in which the combined direct investment interest of all foreign parents of the affiliated exceeds 50 per centum.

(b) *Consolidation of U.S. affiliates.* U.S. affiliates of a foreign parent may be consolidated when the following conditions apply:

(1) The affiliates are in the same BEA 3-digit industry as defined in Industry Classifications and Export and Import Trade Classifications Booklet; or

(2) The affiliates are integral parts of the same business operation. For example if U.S. affiliate A manfactures tires and a majority of its sales are to U.S. affiliate B which produces autos, then affiliates A and B may be consolidated.

Any affiliates consolidated shall thereafter be considered to be one affiliate and should be consolidated in the same manner for all reports required to be filed pursuant to this section.

NOTE.—U. S. affiliates currently reporting and which are consolidated in a manner which is not in accord with the above rules may continue their present consolidated reporting until the next BE–12, Benchmark Survey of Foreign Direct Investment in the United States, is conducted.

(c) *Reports required.* The place and time for filing, and specific instructions and definitions relating to, a given report form, will be given on the form. Reports are required even though a U.S. affiliate may have been established, acquired, liquidated, sold, or inactivated during the reporting period.

(d) *Exemption levels.* Exemption levels for individual report forms will normally be stated in terms of total assets, net sales or gross operating revenues excluding sales taxes, and net income after income taxes, whether positive or negative. For a given U.S. affiliate, if any one of the three items exceeds the exemption level and if the statistical data requested in the report are applicable to the affiliate, then a report must be filed for the affiliate (see however § 806.10 of this Chapter). Since these items may not have to be reported on a given form, a U.S. affiliate claiming exemption from

filing a given report form must furnish a certification as to the levels of the items on which the exemption is based or must certify that the data requested are not applicable. The exemption level test for a given affiliate shall be applied as outlined below.

(1) For quarterly report forms, as to the assests test, reports shall be required for any quarter in which assets exceed the exemption level; as to the test for sales (revenues) and net income after income taxes, reports shall be required for a year in which the annual amount of these items exceeds or can be expected to exceed the exemption level. Quarterly reports for a year may be required retroactively when it is determined that the exemption level has been exceeded. If a U.S. affiliate's sales or net income exceed the exemption level in a given year, the presumption is that the exemption level will also be exceeded in the following year.

(2) For report forms requesting annual data after the close of the year in question, the test shall be whether any one of the three items exceeded the exemption level during that year. The number and title of each report form, its exemption level and other reporting criteria, if any, pertaining to it, are given below.

(e) *Quaterly report forms.* (1) BE–605—Transactions of U.S. Corporation With Foreign Affiliate: One report is required for each U.S. affiliate exceeding an exemption level of $2,000,000.

(2) BE–605—Transactions of Unincorporated U.S. Business Enterprise (Except a Bank) With Foreign Parent: One report is required for each U.S. affiliate exceeding an exemption level of $2,000,000.

(3) BE–606B—Transactions of U.S. Banking Branch or Agency With Foreign Parent: One report is required for each U.S. banking affiliate exceeding an exemption level of $2,000,000.

(4) BE–609—Transactions of U.S. Affiliate With Foreign Affiliate(s) of Foreign Parent: Must be filed only when a related Form BE–605, 606, or 606B is required to be filed by the U.S. affiliate and must cover only those countries for which direct intercompany payable or receivable balances with, or interest, royalty, rental, or fee charges by or to, foreign affiliates of foreign parent exceed, or can be expected to exceed, $500,000, during the year. Quarterly reports may be required retroactively when it is determined that the exemption level has been exceeded. If the exemption level is exceeded in a given year, the presumption is that the exemption level will also be exceeded in the following year. Data for all foreign affiliates of the foreign parent within a single country must be consolidated on one line of the form.

(f) *Other report forms.* (1) BE–607—Industry Classification Questionnaire: In general, a U.S. affiliate will be assigned a BEA 3-digit industry code in the BE–12 Benchmark Surveys required by the Act to be conducted at least once every five years. However, interim reports on Form BE–607 are required:

(i) For each U.S. affiliate newly established or acquired by a foreign person on or after January 1, 1977; or

(ii) For an existing U.S. affiliate whose industry classification changed on or after January 1, 1977 and for which either a previous BE–607 report or the BE–12 report required to be filed for 1974, does not accurately reflect the current industry classification of the entity.

For new U.S. affiliates, the BE–607 report should be submitted with the initial filing of the related BE–605, BE–606, or BE–606B report. For changes in existing U.S. affiliates, the BE–607 report should be filed whenever it is determined that a change from one BEA 3-digit industry classification to another has occurred.

(2) Be–12—Benchmark Survey of Foreign Direct Investment in the United States: Section 4b of the Act (22 U.S.C. 3103) provides that a comprehensive benchmark survey of foreign direct investment in the United States shall be conducted at least once every five years. The survey is referred to as the "BE–12". Specific requirements for, and the year of coverage of, each BE–12 Survey are given in section 806.17.

§ 806.16 Rules and regulations for BE–10, Benchmark Survey of U.S. Direct Investment Abroad—1976.

A BE–10, Benchmark Survey of U.S. Direct Investment Aboard, will be conducted covering calendar year 1976. All legal authorities, provisions, definitions, and requirements contained in §§ 806.1 through 806.13, 806.14 (a), (b), (c), (d), and (g) (2) of this chapter are applicable to this Survey. Specific additional rules and regulations for the BE–10 Survey are given below.

(a) *Who must report and forms required.* (1) *Basic requirement*—A BE–10 report is required from every U.S. person having a foreign affiliate—that is, every U.S. person having direct or indirect ownership or control of a least 10 per centum of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise—at any time during the year ending December 31, 1976. Reports are required even though the foreign business enterprise may have been established, acquired, seized, liquidated, sold, exporpriated, or inactivated during the reporting period.

(2) Form BE–10A (Report for U.S. Reporter).

(i) *Filing*—A completed Form BE–10A is required from each U.S. Reporter (see definition). Exception: When a U.S. business enterprise owns a foreign affiliate and the U.S. business enterprise is owned more than 50 per centum by a U.S. individual, the report should be filed by, and Form BE–10A should be for, the business enterprise rather than the individual. Direct transactions or positions, if any, with the foreign affiliate by the individual must be included in the U.S. business enterprise's report.

(ii) *Total exemption*—If no Form BE–10B is required to be filed, then neither is a Form BE–10A.

(iii) *Partial exemption*—U.S. Reporters which are religious, charitable, or other nonprofit organizations or who are individuals, are required to file Form BE–10A, but are exempt from completing Part II, Financial and Operating Data on U.S. Reporter, of the form.

(3) Form BE–10B (Report for Foreign Affiliate).

(i) *Filing*—A U.S. person is required to file at least one Form BE–10B for each foreign affiliate. (Under those limited conditions where foreign affiliates may be consolidated, the consolidated entity is considered to be one foreign affiliate.) All direct and indirect lines of ownership interest held by a U.S. person in the given foreign business enterprise must be summed to determine whether the enterprise is a foreign affiliate of the U.S. person for purposes of reporting. (A U.S. person's percentage of indirect voting ownership in a given foreign business enterprise is the product of the direct voting ownership percentage of the U.S. person in the first foreign business enterprise in the ownership chain times that first enterprise's direct ownership percentage in the second business enterprise times each succeeding direct voting ownership percentage of each other intermediary foreign business enterprise in the ownership chain between the U.S. person and the given foreign business enterprise.) If two or more U.S. Reporters own a foreign affiliate, directly or indirectly, each U.S. Reporter must submit a Form BE–10B for the affiliate. The U.S. Reporter having the highest percentage ownership (direct and indirect combined) in the foreign affiliate must file a complete Form BE–10B and the other U.S. Reporter(s) must file a Form BE–10B in which only Parts I (Identification of Foreign Affiliate Being Reported) and III (Investment and Transactions Between Foreign Affiliate and (A) U.S. Reporter or (B) Foreign Affiliate Parent) have been completed. If the percentage of ownership is the same, the U.S. Reporters must decide among themselves which one will submit the complete report.

(ii) *Consolidation*—In cases where the recordkeeping system of the foreign affiliates makes it impossible or extremely difficult to file a separate report for each foreign affiliate, a U.S. Reporter may consolidate affiliates in the same country when the following conditions apply:

(A) The affiliates are in the same BEA 3-digit industry, as defined in the Industry Classifications and Export and Import Trade Classifications Booklet;

or

(B) The affiliates are integral parts of the same business operation. For example, if German affiliate A manufactures tires and a majority of its sales are to German affiliate B which produces autos, then affiliates A and B may be consolidated.

In all other situations, the U.S. Reporter should call this office at (202) 523–0637 for guidance. Under no circumstances may a U.S. Reporter consolidate foreign affiliates in different countries.

(iii) *Total exemption*—A Form BE-10B need not be filed if the foreign affiliate's total assets, net sales or gross operating revenues excluding sales taxes, and net income after income taxes, are each less than $250,000 (positive or negative); and the foreign affiliate does not own another foreign affiliate for which Form BE-10B must be filed. If the latter condition is not met, then Form BE-10B must be filed for the foreign affiliate holding the equity interest regardless of the value of its assets, sales or income. That is, all affiliates upward in a chain of ownership must be reported.

(iv) *Number of Form BE-10B, Part III's required to be completed*—A separate Part III (Investment and Transactions Between Foreign Affiliate and (A) U.S. Reporter or (B) Foreign Affiliate Parent) or Form BE-10B is required to be filed by the U.S. Reporter for a single foreign affiliate to report each of the following, when applicable: A direct line of ownership in the foreign affiliate which is held by the U.S. Reporter; each direct line of ownership in the foreign affiliate which is held by another foreign affiliate of the U.S. Reporter; and direct financial positions or transactions between the foreign affiliate and the U.S. Reporter when the foreign affiliate is indirectly owned by the U.S. Reporter. If more than one Part III is required for a single foreign affiliate, the supplementary sheet provided—Form BE-10B, Part III (Additional)—should be utilized for each additional one required to be completed.

(4) *Relationship between Forms BE-10A and BE-10B.* The term "U.S. Reporter" as defined means the fully consolidated U.S. domestic enterprise; therefore, on Form BE-10B, when data on trade and financial relationships between the U.S. Reporter and the foreign affiliate are requested, the data must reflect the foreign affiliate's relationship with the entire U.S. enterprise, not merely with one division or part.

§ 806.17 Rules and regulations for BE-12, Benchmark Survey of Foreign Direct Investment in the United States.

No survey is scheduled at this time; the last one was for 1974.

[FR Doc.77-11019 Filed 4-14-77;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 295]

[Doc. No. E77-92]

EMERGENCY NATURAL GAS ACT OF 1977

Proposed Implementation; Extension of Time

AGENCY: Administrator, Emergency Natural Gas Act of 1977.

ACTION: Proposed Rule; Extension of Time to Submit Comments.

SUMMARY: This notice extends the time to submit comments regarding the proposed order in Docket No. E77-92 (published April 12, 1977;) at 42 FR 19154) which would prescribe rules for the allocation of volumes purchased under Section 6 of the Emergency Natural Gas Act.

DATES: Comments must be received on or before April 18, 1977.

ADDRESS: Send an original and six copies to: Richard L. Dunham, Administrator, Emergency Natural Gas Act of 1977, Room 9200, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

J. Paul Douglas, 202-432-1212.

SUPPLEMENTARY INFORMATION: On April 7, 1977 (42 FR 19154, April 12, 1977), I issued a notice of proposed order to implement Section 7 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)). Comments regarding the proposed order were to be filed on or before April 13, 1977.

On April 12, 1977, Natural Gas Pipeline Company of America (Natural) requested that the time for the submission of comments be extended to and including April 22, 1977. Natural states that it was not aware of the proposed order until April 11, 1977, and that additional time is required to prepare and submit comments.

For good cause shown, the time to submit comments in this proceeding is extended to and including April 18, 1977.

This notice is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be published in the FEDERAL REGISTER.

This notice is subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

Dated: April 12, 1977.

RICHARD L. DUNHAM,
Administrator.

[FR Doc.77-11286 Filed 4-14-77;12:29 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.

SMALL BUSINESS ADMINISTRATION

MAXIMUM INTEREST RATES

Correction

In FR Doc. 77-10591 appearing at page 18913 in the issue for Monday, April 11, 1977, in the first line at the top of column one on page 18914, "1½%" should have read "½%".

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Louisiana Grain Inspection Points

Statement of considerations. Pursuant to sections 7(e)(1) and 7A(c)(1) of the U.S. Grain Standards Act of 1976 (7 U.S.C. 71 et seq.), hereinafter the "Act", the Federal Grain Inspection Service is required to provide official inspection and weighing services for all grains required or authorized to be inspected and weighed by the Act, at those export port locations where a state is not delegated to perform these official services (7 U.S.C. 79(e)(1) and 7 U.S.C. 79a(c)(1)).

The Federal Grain Inspection Service will assume performance of official inspection and weighing services at such export port locations within 18 months of the November 20, 1976, effective date of the amended Act. Provided that, subject to meeting certain requirements of the Act, existing official agencies may continue to function during such transition period.

Destrehan Board of Trade, Norco, Louisiana, the designated official agency at Bunge Elevator, Desterhan, Louisiana, and Bayside Elevator Co., Reserve, Louisiana, ceased providing official inspection services effective December 31, 1976, in accordance with prior notice to the Federal Grain Inspection Service.

Notice is hereby given that, effective January 1, 1977, the designation of Destrehan Board of Trade, Norco, Louisiana, as an official agency, has been canceled pursuant to the provisions of section 7(g)(2) of the Act (7 U.S.C. 79(g)(2)).

The Federal Grain Inspection Service, effective January 1, 1977, commenced providing official grain inspection and weighing at the Bunge Elevator, Destrehan, Louisiana, and Bayside Elevator Co., Reserve, Louisiana, in accordance with sections 7(e)(1) and 7A(c)(1) of the Act (7 U.S.C. 79(e)(1) and 7 U.S.C. 79a(c)(1)).

(Sec. 7, (Pub. L. 94-582) 90 Stat. 2870 (7 U.S.C. 79); Sec. 7A (Pub. L. 94-582) 90 Stat. 2875 (7 U.S.C. 79A).)

Effective date. This notice shall become effective April 15, 1977.

Done in Washington, D.C., on April 12, 1977.

WILLIAM T. MANLEY,
Interim Administrator.

[FR Doc.77-11083 Filed 4-14-77;8:45 am]

CIVIL SERVICE COMMISSION

PRESCRIBED MINIMUM EDUCATIONAL REQUIREMENTS; ESTABLISHMENT

Computer Science Series, GS-1550

AGENCY: Civil Service Commission.

ACTION: Notice.

SUMMARY: The United States Civil Service Commission has established a prescribed minimum education requirement for computer scientists employed within the Federal service. Computer science is a new professional occupation and the prescribed requirement will assure fair and equitable recruitment and placement actions with respect to the duties of individual positions.

EFFECTIVE DATE: April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond R. Yinger, Personnel Management Specialist, Bureau of Policies and Standards, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-5612.

SUPPLEMENTARY INFORMATION: In accordance with Section 3308 of Title 5, United States Code, the Civil Service Commission has established a prescribed minimum education requirement for computer scientists employed within the Federal service. The requirements, the duties of the positions, and the reasons for the Commission's decision that the requirements are necessary are set forth below:

THE COMPUTER SCIENCE SERIES, GS-1550

GS-5 THRU GS-15

Minimum Educational Requirements. Candidates must have successfully completed a curriculum leading to a bachelor's or higher degree in an accredited college or universiay with a course of study that included or was supplemented by 30 semester hours of course work in a combination of mathematics, statistics, and computer science that provided an indepth knowledge of the (1) theoretical foundations and practical applications of computer science, including digital computer system architecture and software organization, the representation and transformation of information structures, and the theoretical models for such representations and transformations, and (2) essential mathematical and statistical techniques. At least 15 of the 30 semester hours must be in any combination of statistics and mathematics which included differential and integral calculus.

Duties. Computer scientists perform professional research or development work to evolve new or improved concepts, methods, and techniques to store, manipulate or transform, and present information by means of digital computer systems. Computer scientists are either concerned with the development of new fields of computer science research or are responsive to problems arising from use of digital computers within the Federal service. The work requires (a) professional competence in applying the theoretical foundations of computer science, including digital computer system architecture and system software organization, the representation and transformation of information structures, and the theoretical models for such representations and transformations; (b) specialized knowledge of broad areas of applications of computing which have common structures, processes, and techniques and of the design characteristics, limitations, and potential applications of electronic and electro-mechanical digital systems having the ability to transform information; and (c) knowledge of relevant mathematical and statistical sciences.

Reasons for Establishing Requirements. The duties of these positions cannot be performed without a sound basic knowledge of the scientific principles, theories, and concepts that have application to the professional scientific field of computer science, and the mathematical and statistical techniques that pertain to or are involved in computer science. The duties of the positions require the application of highly technical scientific information of a course of study leading to a baccalaureate or higher degree in an accredited college or university which has scientific libraries, well equipped computer center or laboratory, and thoroughly trained instructors who give expert guidance and evaluate progress competently.

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

[FR Doc.77-11067 Filed 4-14-77;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SPECIAL CENSUSES

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bu-

reau 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 March 1, 1977, and March 31, 1977.

Dated: April 11 1977.

ROBERT L. HAGAN,
Acting Director,
Bureau of the Census.

State/place or special area	County	Date of census	Population
Alabama: Pleasant Grove City	Jefferson	Jan. 11, 1977	5,774
Arkansas:			
Ash Flat Town	Sharp	Dec. 2, 1976	648
Carlisle City	Lonoke	Dec. 10, 1976	2,280
Melbourne City	Izard	Dec. 7, 1976	1,288
Oxford Town	do	Dec. 2, 1976	355
California: Huntington Park City	Los Angeles	Nov. 18, 1976	37,851
Idaho: Bancroft City	Caribou	Feb. 7, 1977	478
Illinois:			
Beecher Village	Will	Nov. 22, 1976	1,859
Tolono Village	Champaign	Jan. 17, 1977	2,451
Westmont Village	DuPage	Jan. 12, 1977	13,823
Iowa:			
Center Point City	Linn	Jan. 10, 1977	1,473
Clarinda City	Page	Jan. 24, 1977	5,312
Michigan:			
Albert Township	Montmorency	Jan. 18, 1977	1,562
Oceola Township	Livingston	Jan. 13, 1977	3,520
Oscoda County		Jan. 5, 1977	6,306
Springfield City	Calhoun	Jan. 10, 1977	5,576
West Bloomfield Township	Oakland	Nov. 11, 1976	30,316
Wisconsin:			
Balsam Lake Village	Polk	Jan. 17, 1977	748
Hustisford Village	Dodge	Jan. 17, 1977	855
Oak Creek City	Milwaukee	Dec. 14, 1976	15,510
Texas Town	Marathon	Feb. 7, 1977	1,611

[FR Doc.77–11055 Filed 4–14–77;8:45 am]

Domestic and International Business Administration

COLUMBIA UNIVERSITY

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: 77–00028. Applicant: Columbia University, Havemeyer Hall, New York, N.Y. 10027. Article: CO_2 TEA 801A Laser and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used for the studies of infrared-radiation-induced chemical reactions, including isotope separation. Chemicals that will be employed are nontoxic, volatile liquids. Reaction is driven by absorption of IR photons from an intense infrared source.

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 provides high power level (0.8 joules at a peak power of 1250 kilovolts). The National Bureau of Standards advises in its memorandum dated February 28, 1977 that (1) the specification of the article described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

(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.77–11053 Filed 4–14–77;8:45 am]

UNIVERSITY OF CALIFORNIA—BERKELEY

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: 77–00074. Applicant: University of California, Biochemistry Department, 401 Biochemistry Building, Berkeley, California 94720. Article: Electron Microscope, Model EM 301 and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the following research projects: (1) Studies of nucleic acids by electron microscopy using protein free spreading techniques for DNA, DNA fragments and DNA-enzyme complexes, (2) Studies of cellular structures (e.g., active transport of amino acids in thin sections of the bacterium *Salmonella typhimurium*, biochemical and morphological changes in the sexual mating reactions of yeast, biosynthesis of the spore coat in wild type and spore defective mutants contractile proteins in cytokinesis and mitosis, bacterial membranes and their flagellar attachment sites), and (3) Structural studies employing unstained or negatively stained preparations viewed in darkfield as well as bright field. The article will also be used for instruction in specimen preparative techniques required for specific research projects and for individual and small group instruction in the operation of the electron microscope and associated techniques.

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, was being manufactured in the United States at the time the foreign article was ordered (November 9, 1976). Reasons: The foreign article has a specified resolving capability of 3 Angstroms (Å). The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated March 22, 1977 that the best resolution available is pertinent to the purposes for which the foreign article is intended to be used. HEW further advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended purposes which was being manufactured in the United States at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(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.77–11054 Filed 4–14–77;8:45 am]

UNIVERSITY OF CALIFORNIA—LOS ALAMOS

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: 77–00068. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: Automatic Bar Machine, Model AR7 and accessories. Manufacturer: Andre Bechler, Ltd., Switzerland. Intended use of article: The article is intended to be used in the fabrication of meteorized detonator components needed and requested for the Laboratory weapons program.

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 provides the capability to fabricate large quantities of long slender components (which must be evaluated while production of other components proceeds) to tight tolerances (±0.0005″ or less). The National Bureau of Standards advises in its memorandum dated March 23, 1977 that (1) the capability of the article described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

(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.77–11051 Filed 4–14–77;8:45 am]

UNIVERSITY OF KENTUCKY

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: 77–00061. Applicant: University of Kentucky, Department of Pathology, Albert B. Chandler Medical Center, Lexington, Kentucky 40506. Article: Electron Microscope, Model EM400 and accessories. Manufacturer: Philips Electronics Instruments Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the following investigations:

(1) Studies of renal pathology and pathogenesis of disease,

(2) Studies of cellular abnormalities resulting from drug administration,

(3) Studies of changes in enzyme localization in kidney cells as a means of trying to understand mechanisms by which anuria form in acture renal failure.

(4) Studies of the association of viruses with human tumors and their preliminary viral diagnosis.

(5) Detailed studies of the complex tubular structures which are found in human endometrial cells with the aim of trying to understand the role of this complex channel system in the physiology of these cells.

(6) Studies of the effects of vincristine and vinblastine on rat ovaries and testes.

(7) Study of the role of microtubules and actin-like filaments in dividing cells in culture and the means by which the cell regulates the polymerization, localization and activities of these structures.

(8) Studies of hypercalcemia and hypokalemia at the cellular level in cultured cells.

(9) Studies of large numbers of specimens for purposes related to surgical pathology.

In addition the article will be used for the training of graduate students, and Pathology residents and students taking special programs in Pathology in fine structure analysis and techniques in pathological diagnosis.

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, was being manufactured in the United States at the time the foreign article was ordered (November 12, 1976). Reasons: The foreign article is equipped with a eucentric goniometer stage and has a specified resolving power of 5Å and provides a magnification range of 50 to 440,000X. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated March 22, 1977 that the eucentric goniometer stage and the magnification range of the article are pertinent to the applicant's intended purposes. HEW further advises that it knows of no domestic instrument which provided the pertinent features at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(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.77–11050 Filed 4–14–77;8:45 am]

UNIVERSITY OF NEBRASKA—LINCOLN

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: 77–00067. Applicant: University of Nebraska—Lincoln, Department of Chemistry, Lincoln, Nebraska 68588. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used to cut crystals of all types in experiments involving determination of the modulate piezoreflection spectra from several different crystal facts not all of which occur naturally. The objective of this research is to locate the Van Hove singularities in the joint density of states of the crystals studied. This will permit greater understanding of the band structure of these solids. The article will also be used in the course Thesis Research, Chemistry 999 to train graduate students for research in solid state spectroscopy.

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 has a cutting speed range of 0.1 to 20 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT–2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT–2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the National Bureau of Standards (NBS) in its memorandum dated March 15, 1977 (1) that cutting speeds in the excess of 4 mm/sec. are pertinent to the applicant's research studies and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the Model MT–2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(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.77-11052 Filed 4-14-77;8:45 am]

[File No. 23-548]

ALLAN PORJE

Export Privileges Restored

In the matter of Allan Porje, individually and as operator of Chirana Ltd., Centrotex Ltd., Kovo Ltd., St. Eriksgatan 69, Stockholm, Sweden; Respondent.

Pursuant to the Export Control Act of February 28, 1949, as amended and supplemented by the Export Administration Act of 1969, 50 U.S.C. App. Sec. 2021 et seq., and 2401 et seq., Allan Porje, doing business as Chirana Ltd., was denied all export privileges for an indefinite period of time because of his failure to answer duly served interrogatories. The Hearing Commissioner, in view of the many years in which respondent has complied with the export laws and regulations and whose activities are not now suspect, recommends that he be restored to full export privileges.

I have examined the report and recommendations of the Commissioner. The record fails to disclose any adverse report relative to the respondent and he is not presently suspect in connection with any violations of the United States export laws or U.S. Department of Commerce export regulations. Accordingly, pursuant to the authority delegated to me, Allan Porje, doing business as Chirana Ltd., is unconditionally restored to all United States export privileges.

Dated: April 4, 1977.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.77-11105;Filed 4-14-77;8:45 a.m.]

JOHANNES HENDRIKUS VOS

Export Privileges Restored

In the matter of Johannes Hendrikus Vos, P. Walda, Zelantra, N.V., Netherlands; Respondents.

Pursuant to the Export Control Act of February 28, 1949, as amended and supplemented by the Export Administration Act of 1969, 50 U.S.C. App. 2021 et seq., and 2401 et seq., the above-named respondents were denied export privileges.

The Director, Compliance Division, reports that none of the respondents listed above is presently suspect of violation of U.S. export laws. The Hearing Commissioner, in view thereof, recommended respondents be restored to full export privileges.

I examined the report and recommendations of the Commissioner. The record fails to disclose any adverse reports relating to respondents and none are presently suspect in connection with any violations of United States export laws or U.S. Department of Commerce export regulations. It is fair, fitting and proper that respondents who are in compliance and where it can be reasonably anticipated they will continue in compliance, be restored to full export privileges. Restoration is in accord to purpose and intent of the law, the regulations and policies of this Department. Therefore, it is

ORDERED

Respondents above named are hereby unconditionally restored to all U.S. export privileges.

Dated: April 4, 1977.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.77-11104 Filed 4-14-77;8:45 am]

MAHMUD AHMAD, ET AL.

Termination of Indefinite Denial Orders; Order

In the matter of Mahmud Ahmad et al.; Respondents.

The Export Administration Regulations, 15 CFR 388.15, authorize indefinite denial orders because of a person's failure to answer interrogatories or produce evidence. Orders previously issued, generally, remain effective until receipt of a proper response or adequate reasons are furnished for failure to reply. The denied parties covered by such orders are listed in the Table of Denial and Probation Orders; the expiration date in most cases is "indefinite".

The Hearing Commissioner reports that the purpose of an indefinite denial order, ordinarily, is served within a 5-year period. He recommended that all orders heretofore issued for an "indefinite" term be terminated at the end of five years or on May 31, 1978, whichever is later. He also recommended that an amended order be issued where it is desired to extend the denial period beyond the 5-year period or May 31, 1978.

I concur in the Commissioner's recommendations. I find it consistent with the purposes and in accord with the policies of the Export Administration Regulations, to restore full export privileges to denied persons where there is no continuing purpose for denial or when a denied person demonstrates worthiness for restoration to all export privileges. Therefore, pursuant to the authority vested in me, it is

ORDERED

All indefinite denial orders heretofore issued and for which no termination date was shown, shall expire five years from the date of such order or on May 31, 1978, whichever is later. But the period of denial, for such reasons as may be deemed appropriate, may be terminated at an earlier date or may be extended.

Dated: April 8, 1977.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.77-11103 Filed 4-14-77;8:45 a.m.]

[File No. 22-69]

PAUL AEBERSOLD

Export Privileges Restored

In the matter of Paul Aebersold, Fronwaldstrasse 21, Zurich, Switzerland; Respondent.

Pursuant to the Export Administration Act of 1969, 50 U.S.C. App. Sec. 2401 et seq., Paul Aebersold was denied all export privileges for commodities which may be exported under general license GLV; his name appears on the Table of Denial and Probation Orders List, 15 CFR 388, Supp. I.

The Director, Compliance Division, reports that respondent is not now suspect or known to be in violation of the U.S. export laws or regulations.

The Hearing Commissioner, in view of the Compliance Division report, recommends respondent be restored to full export privileges.

I have examined the report and recommendations of the Commissioner. The record fails to disclose any adverse report. Nor is respondent presently suspect in connection with any violation of United States export laws or U.S. Department of Commerce export regulations. Therefore, pursuant to the authority delegated to me by the Export Administration Regulations, it is

ORDERED

Paul Aebersold is hereby unconditionally restored to all United States export privileges.

Dated: April 8, 1977.

RAUER H. MEYER,
Director, Office of Export Administration.

[FR Doc.77-11106 Filed 4-14-76;8:45 am]

National Oceanic and Atmospheric Administration

WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL'S SCIENTIFIC AND STATISTICAL COMMITTEE

Meeting

Notice is hereby given of a meeting of the Scientific and Statistical Committee of the Western Pacific Fishery Management Council, established in accordance with section 302(g)(1) or the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The Western Pacific Fishery Management Council has authority over fish-

eries within the fishery conservation zone adjacent to the State of Hawaii, Guam and American Samoa. The Council's functions are, among other things, to prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings. The Scientific and Statistical Committee assists the Council in the development, collection and evaluation of such statistical, biological, economic, social and other scientific information as is relevant to the Council's development and amendment of fishery management plans.

The meeting, the Committee's second, will be held on May 3 and 4, 1977, in the conference room of the National Marine Fisheries Service laboratory at 2570 Dole Street, Honolulu, Hawaii, from 9 a.m. to 4:30 p.m. each day.

PROPOSED AGENDA

1. Consideration of the minutes of the first meeting.
2. Progress reports on management plan development.
3. Report of the subcommittee on methodology.
4. Report on status of Advisory Panel formation.
5. Report from Executive Director on status of arrangements and responses to legal and policy questions.
6. Further discussion of contents and format of management plans.

This meeting is open to the public, and there will be seating for approximately 15 members of the public on a first-come first-served basis. Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, interested members of the public should contact:

Mr. W. G. Van Campen, Executive Director, Western Pacific Fishery Management Council, Room 1506, 1164 Bishop Street, Honolulu, Hawaii 96813, 808-523-1368.

about 10 days before the meeting.

At the discretion of the Committee, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Committee business. Interested members of the public who wish to submit written comments should do so by submitting them to Mr. Van Campen at the above address. To receive due consideration and facilitate inclusion of these comments in the written record of the meeting, typewritten statements should be received within 10 days after the close of the Committee meeting.

Dated: April 12, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77-11100 Filed 4-14-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

April 4 Through April 8, 1977

The following is a list of environmental impact statements received by the Council on Environmental Quality from April 4 through April 8, 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. (May 30, 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 are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Draft

Eagle Aspen Unit, White River National Forest, Eagle and Pitkin Counties, Colo., April 6: Proposed is the implementation of a revised Land Management plan for the 550,000 acre Eagle-Aspen Unit in White River National Forest in Colorado. Opportunities to be provided include 172,000 visitor days of developed recreation and 452,000 visitor days of dispersed recreation. Management of 20,000 acres of forest stand for wildlife habitat would contribute to an estimated annual yield of 4.0 MMBF. Primary impacts will result from construction and reconstruction of 253 miles of road, protection of 70,150 acres for wilderness study, and the harvesting of trees and the utilization of forage. (ELR Order No. 70441.)

Francis Marion Nation Forest Land Management Plan, Berkely and Charleston Counties, S.C., April 6: The proposed action is the implementation of a ten year management plan for the 249,412 acre Francis Marion National Forest in South Carolina. The plan provides for suitable public access as well as sustained yield of timber through silvicultural activities. Adverse effects include soil compaction, visual changes, periodic lowered air quality, increased noise levels and impacts related to limited use of pesticides. (ELR Order No. 70439.)

Final

South Fourche Unit Plan, Quachita, National Forest, Saline, Yell, and Perry Counties, Ark., April 6: Proposed is a plan for the management of the 98,275 acre South Fourche Planning Unit, Quachita National Forest, from October 1, 1976 to September 30, 1986. Major actions include regenerating commercial timber stands on 11,945 acres, thinning timber on 19,000 acres, improving wildlife habitat, constructing 23 miles and reconstructing 72 miles of road. The degree of negative impact varies according to the nature and location of the many activities. Comments made by: USDA, DOD, DOI, DOC, and EPA. (ELR Order No. 70438.)

RURAL ELECTRIFICATION ADMINISTRATION

Supplement

115 kV Transmission Line, Teton to Jackstatement supplements a final EIS filed with CEQ in March, 1976. The proposed action is the construction of a 115 kV transmission line by Lower Valley Power and Light Inc. from Teton to Jackson. Subsequent to the issuance of the Rural Electrification Administration's final EIS, the Department of Interior denied rights of way to cross lands controlled by the Bureau of Land Management. This supplement discusses three alternative routes and their associated impacts. (ELR Order No. 70430.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-2186.

Draft

California Coastal Management Program (2), several counties, Oreg., April 7: This statement is a revision of a draft EIS filed with CEQ in September 1976. Proposed is the approval of the Coastal Management Program for the State of California pursuant to Pub L. 92-583. The program would restrict or prohibit certain land and water uses in parts of the California Coast, while promoting and encouraging development and use activities in other parts. The revised draft EIS reflects changes made by the California Legislature in the course of adoption of the California Coastal Act of 1976. (ELR Order No. 70443.)

ECONOMIC DEVELOPMENT ADMINISTRATION

Final

E. Market Wholesale Dist. Ctr., Railroad Spur, Wayne County, Mich., April 5: The proposed action calls for construction of a railroad spur to be located within the Eastern Market Wholesale Distribution Center in Detroit, Michigan. The project consists of constructing 3,500 ft. of track connected to the maintrack of the Grand Trunk and Western Railroad, a 40 x 200' public shed, and related street reconstruction and signalization. Adverse impacts include increased auto and truck traffic volumes, and increased levels of noise and air pollution. Comments made by: EPA, DOT, DOI, DLAB, ARP, GSA, and State agencies, concerned citizens. (ELR Order No. 70435.)

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Final

Old Woman Creek Estuarine Sanctuary, Erie County, Ohio; April 4: The statement proposes that a grant be awarded to the State of Ohio to acquire, develop, and operate an estuarine sanctuary in Erie County. About 637 acres of land and water in Old Woman Creek and surrounding lands would be acquired and protected. Land and water uses would be restricted and mineral exploitation prohibited within sanctuary boundaries. Agriculture within the proposed sanctuary, if allowed, would be limited in extent and strictly controlled. Comments made by: USDA, DOD, DOI, DOT, EPA, NRC, and State and local agencies, concerned citizens. (ELR Order No. 70433.)

DEPARTMENT OF DEFENSE
AIR FORCE

Contact: Col. Luis F. Dominguez, Room 5D 431, Pentagon, Washington, D.C. 20330, 202-697-7795.

Draft

Loring AFB Closure (2), Maine, April 5: This statement represents a revision of a draft EIS filed with CEQ in September 1976. The proposed action is to reduce Loring AFB, in Maine, to a forward operating base by inactivating the 42 Bombardment Wing and its supporting operational and maintenance squadrons. The following selected tenant organizations would be retained because of special mission requirements: specifically, the 4000 Aerospace Applications Detachment and the 49th Fighter Interceptor Squadron Detachment of the Aerospace Defense Command. The major adverse impacts are socioeconomic, resulting from the elimination of approximately 3,560 personnel positions. (ELR Order No. 70434.)

Draft

F-16 Beddown at Hill AFB, Utah, April 7: The proposed action is to beddown a F-16 Tactical Fighter Wing at Hill Air Force Base (AFB), Utah during the period from January 1979 to September 1980. During this 21 month period the 388th Tactical Fighter Wing (TFW) will phase out 54 F-4D Phantom aircraft. The action will result in a decrease in the area impacted by the noise associated with F-16 operations. Carbon monoxide, total hydrocarbons, and total hydrocarbons, and total particulates due to aircraft operations will decrease during the beddown. (ELR Order No. 70442.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Final

Monte Brisas Development, Fajardo, Puerto Rico, April 4: Proposed is the Los Caobos Development Project, Ponce, Puerto Rico. This project involves the residential development of a 138.34 acre tract of land over approximately six years. Land is being reserved for development of public space and school areas. Adverse effects include the conversion of potential agricultural land to urban use, temporary increases in air pollution, increased storm water runoff, and increased solid waste collection and disposal activities. Comments made by: GSA, HUD, DOT, USDA, HEW, DOI, EPA, and commonwealth agencies, concerned groups and persons. (ELR Order No. 70431.)

SECTION 104(h)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Draft

Lawton, Okla.—Industrial Waterline, Oklahoma, April 8: Proposed is the construction of industrial utilities in the City of Lawton, Oklahoma. The project includes an industrial water storage tower, a water pump station at the existing seven million gallon tank, an industrial water line, and an industrial sewer line. Short term construction impacts will result. (ELR Order No. 70444.)

Final

Castleberry, Ala., Water Systems Improvement, Conecuh County, Ala., April 4: Proposed is the granting of HUD funds for replacement of an existing water system in the town of Castleberry. Project plans include construction of a new 250 gallon per minute well in the north-central section of town and an additional elevated water storage tank in the northwestern portion of the community. Short run impacts will be an increase in noise and dust, as well as the occurance of soil erosion. Comments made by: EPA, HEW and state agencies. (ELR Order No. 70432.)

Carbondale, Ill.—Street Improvements, Jackson County, Ill., April 6: Proposed is the widening and resurfacing of 6 streets in the Springmore area, Carbondale, Ill. The project calls for reconstruction of curbs and gutters; improvement of base course and pavement surface material; construction of new 4-feet wide sidewalks, storm sewers, and culverts; and improvements in sanitary sewer and water line systems. Estimated costs of Bridge and Rigdon Street improvements are $990,300. Depending on the alternative selected, adverse impacts include removal of 97-246 trees, and loss of 3-5 acres of land surface to sidewalks and streets. Comments made by: EPA and State and local agencies, concerned citizens. (ELR Order No. 70436.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

FAP Rte. 56, Kailhiwai to Haena, Hawaii, April 6: Proposed are improvements to 12.5 miles of FAP Rte. 56, the Kuhio Highway, in the Hanalei District of the Island Kauai, Hawaii. The action consists of: realigning and/or widening the highway from Kailhiwai to the Hanalei Bridge (3.6 miles); constructing shoulders and resurfacing the existing highway from the Hanalei Bridge to the outskirts of Hanalei Town (1.2 miles); and replacing or repairing eleven one-lane bridge structures, including the Hanalei Bridge (Hanalei River to Linahuli Stream, 8.9 miles). Adverse effects are alterations of landscape, loss of wildlife habitat and impacts to historical and archeological resources. (Hawaii division.) (ELR Order No. 70440.)

Final

I-94, U.S. 12/I-394 to T.H. 152, Hennepin County, Minn., April 6: This final EIS combines two earlier draft EISs on the Construction of I-94. The project runs between inplace I-94 at U.S. 12/I-394 on the west side of the Minneapolis Central Business District, and T.H. 152 in Brooklyn Center. The length of new construction is 6.2 miles and the length of reconstruction is 1.8 miles. A 4(f) statement is included for the parklands in Minneapolis and Brooklyn Center. Adverse impacts will be displacement of dwelling units and businesses, increased noise levels, and disruption of Shingle Creek due to a channel change. (Region 5.) Comments made by: EPA, USDA, DOT, DOI, HUD, DOC, and (ELR Order No. 70437.)

NICHOLAS C. YOST,
General Counsel.

[FR Doc.77-11029 Filed 4-14-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

SEAFARER ELF COMMUNICATIONS SYSTEM; SITE SELECTION AND PROPOSED TEST OPERATIONS IN MICHIGAN

Public Hearing and Availability of Draft Environmental Impact Statement

Notice is hereby given that a public hearing will be held for the purpose of providing the public with relevant information on site selection and proposed test operations at K. I. Sawyer Air Force Base, Michigan, for the Seafarer Extremely Low Frequency (ELF) Communications System, and to afford the public an opportunity to present their views on the proposed Navy Project. The hearing will be held on May 2, 1977 and continued on May 3, if necessary, at the Catherine Bonifas Civic Center, 225 N. 21st St., Escanaba, Mich. 49829. The hearing will start at 7 p.m. and terminate at 11 p.m. The hearing will be conducted by Captain John Dobson, U.S. Navy (CEC), and will include a presentation explaining the Navy's proposed action, a system description, a site-dependent environmental impact summary, alternatives, proposed Navy recommendations and the proposed program plan for the future.

This hearing is being held in Escanaba, Michigan, because K. I. Sawyer Air Force Base and the surrounding region is one of three candidate areas considered for building a Seafarer Test Facility, conducting ELF communications experiments, and developing appropriate construction criteria and operational methods to ensure maximum environmental pro- for an operational Seafarer System.

Seafarer is essentially a buried transmitting array of insulated cables. The system's principal purpose is for communications with submerged submarines.

The following procedures will be followed during the public hearing. Individual speakers will have three minutes, and group spokespersons will have five minutes to summarize and present their views. One speaker may not relinquish time to another. Individuals and organizations wishing lengthy statements to be included in the hearing record should provide written statements to the Hearing Officer. Pre-registration is desired, and should be made in person or by writing either to the Seafarer Information Center, 201 Rublein Street, Marquette, MI 49855 or to Captain John Dobson, USN (CEC), Code 01F, Naval Electronic Systems Command, Washington, DC 20360. The name and title of the speaker for organizations should be included. The closing date for including written statements in the hearing record is May 25, 1977.

Anticipated environmental effects are available for review in the Seafarer ELF Communications System Draft Environmental Impact Statement for Site Selection and Test Operations; Naval Electronic Systems Command (February

1977). Copies of the statement are available at the following locations:

Chief of Information, The Pentagon Press Room, Washington, D.C. (Captain Thomas, 679-2886).
Bay de Noc Community College Library, North Campus, Escanaba, MI 49829.
State of Michigan Washington Office, 1150 17th St., NW., Suite 609, Washington, DC 20036.
Library of Congress, Washington, DC 20540.
U.S. Environmental Protection Agency, Region V, 230 South Dearborn St., Chicago, IL 60604.
Commander, K. I. Sawyer Air Force Base, MI 49843.
Michigan Environmental Review Board, Lewis Cass Building, Lansing, MI 48900.
Northern Michigan University Library, Marquette, MI 49855.
Michigan Technological University Library, Houghton, MI 49931.
Lake Superior State College Library, College Drive, Sault Ste. Marie, MI 49783.
Suomi College Library, Hancock, MI 49930.
Chassell Township Schools, P.O. Box 40, Chassell, MI 49916.
Big Bay de Noc School, Cooks, MI 49817.
Gogebic Community College Library, Greenbush and Jackson Rd., Ironwood, MI 49938.
Amasa Community Library, Amasa, MI 49903.
Baraga Township Schools, Lyons St., Baraga, MI 49908.
Bergland Community School, Bergland, MI 49910.
Bessemer Public Library, City Hall, S. Sophie St., Bessemer, MI 49911.
Bessemer Township Schools, Ramsay, MI 49951.
A. D. Johnson High School, Moore St., Bessemer, MI 49911.
Brimley Public Schools, Brimley, MI 49715.
Calumet School—Public Library, Calumet Avenue, Calumet, MI 49913.
Carney—Nadeau Public School, Carney, MI 49812.
Les Cheneaux Community Schools, Cedarville, MI 49719.
Champion High School, P.O. Box 68, Champion, MI 49814.
Ewen-Trout Creek Consolidated School, Box 218, Ewen, MI 49925.
Crystal Falls Community Library, Superior Ave., Crystal Falls, MI 49920.
Forest Park School District, West Superior Ave., Crystal Falls, MI 49920.
Curtis Library, Curtis, MI 49820.
DeTour Area School and Public Library, P.O. Box 68, DeTour Village, MI 49725.
Osceola Township School and Public Library, Box 371, Dollar Bay, MI 49922.
Rock River Township Schools, Eben Junction, MI 49825.
Escanaba Public Library, 201 South 7th St., Escanaba, MI 49820.
Catherine Bonifas Memorial Library, Escanaba Area Public High School, 500 South Lincoln Rd., Escanaba, MI 49829.
Escanaba Area Junior High School, 1500 Luddington St., Escanaba, MI 49829.
McMillian Township Library, Ewen, MI 49925.
North Dickinson County School, Star Route 1, Iron Mountain, MI 49801.
West Iron District Library, City Hall, 106 West Genesee, Iron River, MI 49935.
Gladstone Area School and Public Library, 1041 Dakota Ave., Gladstone, MI 49837.
Burt Township School and Public Library, Grand Marais, MI 49839.
Forsyth Township Public Library, Gwinn, MI 49841.
Gwinn High School Library, Gwinn High School, Gwinn, MI 49841.
Hancock School-Public Library, Quincy Street, Hancock, MI 49930.
Bark River-Harris Schools, Harris, MI 49345.
Portage Lake District Library, 105 Huron St., Houghton, MI 49931.
Houghton High School Library, Houghton High School, Houghton, MI 49931.
Mid-Peninsula Library Federation, Dickinson County Library, 401 Iron Mountain St., Iron Mountain, MI 49801.
Iron Mountain Senior High School, West B Street, Iron Mountain, MI 49801.
Central Junior High School, Iron Mountain, MI 49801.
Lake Linden-Hubbell Public Schools, 601 Calumet St., Lake Linden, MI 49945.
L'Anse Township School and Public Library, L'Anse, MI 49946.
West Iron County High School, 612 W. Adams St., Iron River, MI 49935.
Carnegie Library, 235 E. Aurora St., Ironwood, MI 49938.
Luther L. Wright High School Library, Ayer St., Ironwood, MI 49938.
Ironwood Catholic High School, 106 S. Marquette St., Ironwood, MI 49938.
Carnegie Public Library, Corner Main and Barnum Sts., Ishpeming, MI 49849.
Ishpeming High School Library, Division St., Ishpeming, MI 49849.
C. L. Phelps Intermediate School, North St., Ishpeming, MI 49849.
Kingsford High School, Hamilton Ave., Kingsford, MI 49301.
Kingsford Junior High School, Hamilton Ave., Kingsford, MI 49801.
Menominee Middle School, 13th St. at 13th Ave., Menominee, MI 49858.
Allouez Township School Public Library, P.O. Box 318, Mohawk, MI 49950.
Munising School—Public Library, Mather High School, Elm Ave., Munising, MI 49862.
Mackinac Island Public Library, Mackinac Island, MI 49757.
Manistique School and Public Library, Corner Main and Cedar Sts., Manistique, MI 49854.
Roosevelt School, P.O. Box 88, Marenisco, MI 49947.
Peter White Public Library, Marquette, MI 49855.
Marquette Senior High School, 1201 West Fair Ave., Marquette, MI 49855.
Bothwell Middle School, Marquette, MI 49855.
St. Peter-St. John, 500 S. Fourth St., Marquette, MI 49855.
Spies Public Library, 940 First St., Menominee, MI 49859.
Menominee Area High School, 18th St., Menominee, MI 49858.
Rapid River Public Schools, Rapid River High School, Rapid River, MI 49878.
Republic-Michigamme School and Public Library, Route 1, Republic, MI 49879.
Rock Public Schools, Rock, MI 49883.
Sault Area High School, 1 Educational Plaza, Sault Ste. Marie, MI 49783.
National Mine High School, Box B, National Mine, MI 49865.
Negaunee Public Library, Case St., Negaunee, MI 49866.
Negaunee High School, Peck St., Negaunee, MI 49866.
Tahkuamenon Area Street, Public Library, Newberry High School, Newberry, MI 49863.
Norway Public Library, Norway, MI 49870.
Norway High School Library, 3rd and Section Sts., Norway, MI 49870.
Rudyard School—Public Library, Second and William Sts., Rudyard, MI 49780.
Turner-Howson Elementary School Library, Rudyard, MI 49780.
St. Ignace Public Library, 396 North State St., St. Ignace, MI 49781.
LaSalle High School, Portage Rd., St. Ignace, MI 49781
Eastern Peninsula Library Systems Stations, c/o Carnegie Public Library, Sault Ste. Marie, MI 49783.
Associated Press, 6th Floor, Commerce Bldg., Detroit, MI 48226.
Sault Junior High School, E. Spruce, Sault Ste. Marie, MI 49783.
West Iron County Middle School, Airport Rd., Stambaugh, MI 49964.
Menominee County Library, Stephenson, MI 49887.
Wakefield Public Library, 407 Hancock St., Wakefield, MI 49958.
Wakefield Township Schools, Wakefield, MI 49968.
Watersmeet High School, Watersmeet, MI 49969.
Carp Lake Township Library, White Pine, MI 49971.
Michigan State Chamber of Commerce, 501 South Capitol Ave., Suite 500, Lansing, MI 48933.
The Detroit Free Press, 321 West Lafayette Blvd., Detroit, MI 48231
The Detroit News, 815 Lafayette Blvd., Detroit, MI 48231.
The Lansing State Journal, 120 East Lenawee, Lansing, MI 48919.
Booth Newspapers, 1501 Bank of Lansing Bldg., Lansing, MI 48923.
United States International, 404 Commerce Bldg., Detroit, MI 48226.

For further information, contact Captain John Dobson, USN (CEC); Naval Electronic Systems Command, Code 61F, Washington, DC 20360; telephone number (202) 692-5958.

Dated: April 12, 1977.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy,
Deputy Assistant Judge Advocate, General (Administrative Law).

[FR Doc.77-11073 Filed 4-14-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 165-17]

BOLIVIA

Rural Education II—Teacher Training, 511-0482

Pursuant to the authority vested in me as Assistant Administrator, Bureau for Latin America, by the Foreign Assistance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the Director, USAID/Bolivia, the authority to negotiate, execute and implement a Project Agreement between the Government of Bolivia and the United States of America for a loan and a grant to help finance a project which consists of the consolidation of ten existing normal schools into eight sites and the improvement of teacher training, curriculum development, teaching materials, physical facilities and administrative procedures, pursuant to the Project Authorization and Request for Allotment of Funds dated April 5, 1977.

The delegation of authority to negotiate and execute shall expire one hundred twenty (120) days after the date of the signing of this Delegation of Authority.

Dated: April 5, 1977.

D. M. LION,
Assistant Administrator, Bureau for Latin America.

[FR Doc.77-11132 Filed 4-14-77;8:45 am]

FEDERAL POWER COMMISSION

[Doc. No. ER77-274]

ARKANSAS-MISSOURI POWER CO.

Filing

APRIL 7, 1977.

Take notice that on March 30, 1977, Arkansas-Missouri Power Company (Ark-Mo) tendered for filing the following contracts:

1. Amendatory Agreement between the Southwestern Power Administration (SPA), the City of Thayer, Missouri (Thayer) and Ark-Mo, dated August 17, 1976, providing for an increase in rates charged by Ark-Mo for transmission of power and energy from SPA to Thayer.

2. Electric Service Agreement between Ark-Mo and Thayer dated August 17, 1976, providing for sale of power and energy by Ark-Mo to Thayer for resale.

Ark-Mo states that the rates for transmission service and resale service provided in these contracts are its Rate Schedule W-1, Transmission Service, and its Rate Schedule R-1, Resale Service, which were approved in Docket No. E-9092.

Ark-Mo has requested waiver of the notice requirement in § 35.3 of the Commission's regulations in order to permit these agreements to become effective on March 1, 1977. Ark-Mo estimates that it will realize an increase in revenues for transmission service of $7,321 during the year ending February 28, 1978, and that it will receive approximately $7,400, exclusive of fuel adjustment revenues, for resale service provided during that period.

Ark-Mo states that the contract for resale service contemplates that Ark-Mo will provide power and energy needed to meet Thayer's requirements in excess of that provided by the SPA. Ark-Mo states that it cannot accurately predict the billing determinants or revenues which it will receive from Thayer during the first year after resale service commences and has therefore requested waiver of the requirements of § 35.12(b)(1) of the Commission's regulations with respect to submittal of such estimates.

Copies of this filing have been served upon Thayer and upon the Missouri Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 20, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11011 Filed 4-14-77;8:45 am]

[Doc. No. ER77-278]

ARKANSAS POWER & LIGHT CO.

Change in Rates

APRIL 8, 1977.

Take notice that Arkansas Power & Light Company (AP&L), on April 1, 1977, tendered for filing proposed changes in its rates and charges to eight municipalities, as reflected in proposed Rate Schedule WM1; three rural electric cooperatives, as reflected in proposed Rate Schedule WC1; and the City Water and Light Department of Jonesboro, Arkansas, as reflected in a proposed amendment to Appendix B of the January 23, 1973 contract between AP&L and Jonesboro. The proposed changes would increase revenues from jurisdictional sales and services to these customers by $5,397,801.41 based on the 12 months period ending May 1, 1977.

AP&L states that the proposed increased rates are necessitated by the fact that it is realizing an unreasonably low rate of return on sales to its affected jurisdictional customers, AP&L's financial condition has deteriorated to the point that it has been precluded from issuing additional first mortgage bonds since July, 1975 and additional preferred stock since December, 1976. The Company states that the proposed rates for service to the municipals and cooperatives have been prepared in accordance with the provisions of the September 16, 1976 Settlement Agreement between the Company and those customers, which were filed in Docket No. ER76-110 and approved by the Commission by Order issued November 15, 1976.

Copies of the proposed rate schedules and statements comparing the sales and revenues therefrom, which pertain to the particular customer, were served on AP&L's jurisdictional customers affected by the filing. Copies were also served on the Arkansas Public Service Commission, Louisiana Public Service Commission and the Tennessee Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 20, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11004 Filed 4-14-77;8:45 am]

[Doc. No. CP77-200]

COLUMBIA GAS TRANSMISSION CORP.

Application

APRIL 8, 1977.

Take notice that on February 9, 1977, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP77-200 an application[1] pursuant to Section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), for a certificate of public convenience and necessity authorizing the transportation of natural gas on a best-efforts basis for a term of two years on behalf of Quaker State Oil Refining Corporation (Quaker), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 1,100 Mcf of natural gas per day for Quaker. It is stated that the gas to be transported would be delivered into Applicant's line FO-1776 in Jackson Township, Guernsey County, Ohio, and redelivered by Applicant to Columbia Gas of West Virginia, Inc. (Columbia W. Va.) and Columbia Gas of Pennsylvania, Inc. (Columbia Pa.) at existing points of delivery. Applicant estimates that 75 percent of the gas transported would be delivered to Columbia W. Va. at Newell, West Virginia, and 25 percent of the gas would be delivered to Columbia Pa. at Emlenton, Pennsylvania.

Applicant states that it would make a transportation charge of 24.75 cents for each Mcf of gas delivered into its gathering system for the account of Quaker and would retain for company-use and unaccounted-for gas 3.1 percent of the total volume of gas delivered into its system.

It is further stated that the transportation of such gas would be on a best-efforts basis and subject to Applicant's obligations to its customers and its pipeline capacity.

It is stated that Quaker has contracted to purchase such gas from Enterprise Gas and Oil, Inc. (Enterprise), New Cumberland, Ohio, an independent producer, and has agreed to pay $1.95 per Mcf for the first year of the two year term and $2.03 per Mcf during the last year of the term. Enterprise states that if the Commission does not approve Applicant's transportation service, such gas would be sold to the intrastate market.

[1] The instant application is a telegraphic request which was supplemented pursuant to a letter dated February 10, 1977.

It is asserted that such gas would be used by Quaker to offset curtailment of its Priority 2 gas utilized in its hydrogen processing units at its Congo, West Virginia, refinery and at its Emlenton, Pennsylvania, refinery. It is further asserted that no other source of energy, other than propane which is not presently available, could be utilized in this process.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or 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 will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11003 Filed 4-14-77;8:45 am]

[Doc. No. CP72-189]

COLUMBIA GULF TRANSMISSION CO.

Tariff Filings

APRIL 7, 1977.

Take notice that on March 7, 1977, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing tariff sheets to its FPC Gas Tariff, Original Volume No. 2, consisting of the following:

First Revised Sheet Numbers 62, 63, and 69 through 71 Superseding Original Sheet Numbers 62, 63, and 69 through 71.

Second Revised Sheet Number 72 and 73 Superseding Substitute First Revised Sheet Numbers 72 and 73.

First Revised Sheet Number 74 Superseding Original Sheet Number 74.

These tariff sheets constitute the revisions to Columbia Gulf's Rate Schedule X-9, to become effective February 9, 1977, pursuant to the Commission's order in Docket No. CP72-189.

Any person desiring to be heard or to make any protest with reference to said application, on or before April 28, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11010 Filed 4-14-77;8:45 am]

[Doc. No. CP77-326]

COLUMBIA GULF TRANSMISSION CO.

Application

APRIL 7, 1977.

Take notice that on March 31, 1977, Columbia Gulf Transmission Company (Applicant), Post Office Box 683, Houston, Texas, 77001, filed an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Sea Robin Pipeline Company (Sea Robin) all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to transport for Sea Robin up to 50,000 Mcf of gas per day from Blocks 609 and 617, West Cameron Area, Offshore Louisiana. The gas will be transported through facilities owned by Applicant, and/or with others in the West Cameron, East Cameron and Vermilion Areas, Offshore Louisiana. Applicant will deliver an equivalent volume of gas for Sea Robin's account at Egan, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application, on or before April 28, 1977, should file with the Federal Power Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11009 Filed 4-14-77;8:45 am]

[Doc. No. RP72-150, et al.]

EL PASO NATURAL GAS CO.

Tariff Filing

APRIL 7, 1977.

Take notice that on March 28, 1977, El Paso Natural Gas Company ("El Paso") tendered for filing certain original and revised tariff sheets to its FPC Gas Tariff, Original Volume No. 1, which, when accepted for filing and permitted to become effective, will modify El Paso's Purchased Gas Cost Adjustment Provision ("PGAC") contained in said tariff.

El Paso states that by Order Affirming Initial Decision, Adopting Settlement Proposal and Reversing Initial Decision on Rate Design Complaint, issued February 16, 1977, at Docket Nos. RP72-150, et al., the Commission approved and adopted the Stipulation and Agreement of El Paso dated and filed with the Commission on August 6, 1976. Said Stipulation and Agreement provides for, inter alia, certain modifications to El Paso's PGAC which are designed to: (i) permit the inclusion of carrying charges on monthly balances in Account 191, Unrecovered Purchased Gas Costs and change the surcharge adjustment for unrecovered purchased gas costs to be based upon estimated volumes of gas to be sold during the six (6) month period the surcharge will be in effect, (ii) allow all producer-supplier refunds received by El Paso to be credited to El Paso's Account 191, with the exception of requiring El Paso to flow-through, as a cash refund, supplier refunds aggregating $10 million or more received during a 120 day period as a result of a single Commission order and (iii) permit costs associated with the Rhodes Reservoir Storage injections and withdrawals to be assigned directly to El Paso's east-of-California customers, as agreed upon during the settlement proceedings.[1]

[1] Appendix F to the subject Stipulation and Agreement contains the revisions to El Paso's PGAC described herein.

El Paso states that it is submitting the instant tender in order to implement the above changes in El Paso's PGAC in conformity with the provisions of said Stipulation and Agreement. El Paso further states that Article XII of the subject Stipulation and Agreement provides that the tariff sheets reflecting the required changes in El Paso's PGAC provision shall become effective as of the first day of the month following the date the Commission order approving such Stipulation and Agreement becomes final and nonappealable. Accordingly, El Paso has requested that the Commission grant waiver of all of its Rules and Regulations, as may be deemed necessary, in order that the tariff sheets tendered as a part of the instant filing be permitted to become effective on April 1, 1977.

El Paso states that copies of the filing have been served upon all parties to the proceedings at Docket Nos. RP72-150, RP73-104, RP74-57 and RP75-39 and, otherwise, upon all of El Paso's affected interstate transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before April 22, 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11013 Filed 4-14-77;8:45 am]

[Doc. No. ES77-26]

IDAHO POWER CO.

Application

APRIL 8, 1977.

Take notice that on April 4, 1977, Idaho Power Company (Applicant), a corporation organized under the laws of the State of Maine and qualified to transact business in the States of Idaho, Nevada, Oregon, and Wyoming, with its principal business office at Boise, Idaho, filed an application with the Federal Power Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing it to enter into a Financing Agreement (Financing Agreement) with the County of Sweetwater, Wyoming (County), and to issue notes thereunder, pursuant to which Applicant will incur liabilities equal to the required payment of the principal obligation of, premium, if any, and interest on Pollution Control Revenue Bonds (Pollution Control Bonds) not to exceed $26,000,000 in aggregate principal amount, to be issued by the County, pursuant to an Indenture of Trust (Indenture) to be entered into between the County and the First National Bank of Chicago acting as Trustee (Trustee).

Any person desiring to be heard or to make any protest with reference to said application should, on or before April 25, 1977, file with the Federal Power Commission, Washington, D.C., 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. BLUMB,
Secretary.

[FR Doc.77-11012 Filed 4-14-77;8:45 am]

[Doc. Nos. RP73-14, RP76-50; PGA 77-2, DCA 77-1]

MICHIGAN WISCONSIN PIPE LINE CO.

Proposed Changes in F.P.C. Gas Tariff

APRIL 7, 1977.

Take notice that on March 16, 1977 Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing Sixteenth Revised Sheet No. 27F to its F.P.C. Gas Tariff, Second Revised Volume No. 1. Michigan Wisconsin proposes an effective date of May 1, 1977 for said revised sheet.

The foregoing tariff sheet reflects (1) a commodity increase of 3.34 cents, a one-part rate increase of 3.49 cents and a demand charge increase of $.03 in the purchase gas adjustment to reflect principally increased rates charged by pipeline suppliers including the impact of the increase in the cost of Canadian gas which became effective January 1, 1977, (2) an increase in the surcharge of 4.95 cents to recover principally increases in the cost of Canadian gas and the effect of emergency purchases during the deferral period August 1, 1976 through January 31, 1977, and (3) a commodity increase of 1.41 cents to recover the Demand Charge Adjustment for the period September, 1976 through January, 1977.

Michigan Wisconsin further states that it requests a waiver of the requirements of Part 154 of the Commission's Regulations under the Natural Gas Act to the extent that such waiver may be necessary to permit this filing of Sixteenth Revised Sheet No. 27F to be made and to become effective May 1, 1977. However, in the event the Commission does not accept Sixteenth Revised Sheet No. 27F to become effective May 1, 1977, Michigan Wisconsin requests that Alternate Sixteenth Revised Sheet No. 27F be accepted May 1, 1977 and that Sixteenth Revised Sheet No. 27F be suspended for (1) day to become effective May 2, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 22, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11007 Filed 4-14-77;8:45 am]

[Doc. No. ER77-277]

PENNSYLVANIA POWER CO.

Tariff Change

APRIL 8, 1977.

Take notice that the Pennsylvania Power Company (PPC), on April 1, 1977, tendered for filing proposed changes in its FPC Electric Service Tariff. PPC indicates that the proposed changes would increase revenues from jurisdictional sales and service by $1,317,600 based on the twelve month period ending December 31, 1977.

PPC indicates that it last filed for an increase in FPC jurisdictional rates on April 30, 1973 utilizing a 1972 test year and since that time FPC has obtained vested interest in various short lead time capacity units; has become the operating company and partial owner (4.2 percent) of the CAPCO coal-fired Bruce Mansfield Unit No. 1 with a net rated capacity of 825 Mw; and is also a 17.5 percent owner of the CAPCO nuclear Beaver Valley Unit No. 1 with an initial net rated capacity of 856 Mw. PPC also indicates that the average plant in service has increased 109 percent since 1972, including approximately $32,600,000 in pollution control devices.

PPC states that as a direct result of these additional facilities, the inflationary operating costs have caused a tremendous erosion in PPC's earnings. In the FPC order in our 1973 rate case, a rate of return of 8.05 percent was granted. PPC's cost of service study for Period I, twelve months ended October 31, 1976, indicates that the rate of return for the municipal resale class was only 3.17 percent; and for Period II, twelve months ending December 31, 1977, the rate of return would be 3.35 percent.

Copies of the filing were served upon the Pennsylvania Public Utility Commission and all secretaries of the municipalities involved on April 1, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the

Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with § 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.0). All such protests should be filed on or before April 20, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not service to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11005 Filed 4-14-77;8:45 am]

REGULATORY INFORMATION SYSTEM

Pilot Test Program

APRIL 8, 1977.

Notice is hereby given that the Federal Power Commission intends to conduct during April–May–June 1977 a pilot test of the new forms of its Respondent Reporting System. The Respondent Reporting System is the data collection phase of the FPC's Regulatory Information System. The purpose of this pilot test program is to test the adequacy of FPC's proposed new forms packages (schedules, instructions and data item lists). The report forms provided in the following proposed rulemakings will be included in the pilot test:

151, notice issued June 28, 1976, Docket No. RM76-19 (41 FR 29165).
153, notice issued July 28, 1976, Docket No. RM76-27 (41 FR 33642).
154, notice issued August 27, 1976, Docket No. RM76-33 (41 FR 37882).
156, notice issued August 23, 1976, Docket No. RM76-32 (41 FR 36926).
157, notice issued June 30, 1976, Docket No. RM76-21 (41 FR 28416).
158, notice issued August 18, 1976, Docket No. RM76-31 (41 FR 37232).
159, notice issued July 7, 1976, Docket No. RM76-23 (41 FR 28904).
160, notice issued June 28, 1976, Docket No. RM76-20 (41 FR 29179).
161, notice issued July 20, 1976, Docket No. RM76-26 (41 FR 31714).
162, notice issued August 31, 1976, Docket No. RM76-34 (41 FR 39448).

With few exceptions, all schedules in these forms will be tested.

Report form schedules provided in the following proposed rulemakings do not pose problems warranting a pilot test:

155, notice issued July 30, 1976, Docket No. RM76-28 (41 FR 33782).
163, notice issued August 13, 1976, Docket No. RM76-30 (41 FR 36402).
164, notice issued July 12, 1976, Docket No. RM76-25 (41 FR 31340).

Pursuant to public notice given January 18, 1977, inviting all interested parties to participate in planning for the continued development of the FPC's Regulatory Information System, representatives of industry and government have participated with FPC staff in the development of the RIS pilot test program. The plan calls for the collection of 1976 or earlier data on the new RIS Schedules in accordance with the set of instruction included in each new form package. Pilot test packages will be available starting in April 1977. All schedules are to be completed and returned to the FPC, together with participants' comments, no later than 30 days following their mailing date to the respondents. All interested parties are hereby invited to participate in the conduct of the pilot test program.

The experience gained from the pilot test program will be useful to the FPC staff in preparation of its recommendations to the Commission regarding the next steps in the implementation of the Respondent Reporting System. A successful pilot test could mean the elimination of the parallel reporting requirement indicated for all respondents in the above referenced Rulemakings.

If you are interested in participating in the pilot test program, within the time frame stated above, you are invited to reply on or before May 16, 1977 to:

Secretary, Federal Power Commission, 825 N. Capitol Street, Washington, D.C. 20426.

In your response, please identify the Rulemakings/Forms that you would be willing to execute as a pilot respondent, along with the dates you propose to return each of the completed report form schedules to the FPC.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11006 Filed 4-14-77;8:45 am]

[Doc. No. CP77-243]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

APRIL 7, 1977.

Take notice that Southern Natural Gas Company (Southern) on March 28, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 3. The proposed changes reflect a new Rate Schedule F-17 providing for a field sale of natural gas to Sea Robin Pipeline Company (Sea Robin) in Block 22, Vermilion Area, Offshore Louisiana.

Southern states that the new rate schedule reflects an agreement dated February 17, 1977, between Southern and Sea Robin and is being filed pursuant to the Commission's order dated March 11, 1977 in Docket No. CP77-243. Southern further states that the sale to Sea Robin is an obligation under the Joint Venture Agreement between Southern and United Gas Pipe Line Company, all as more fully explained in its application for a certificate of public convenience and necessity filed in Docket No. CP77-243.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 28, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party 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.77-11008 Filed 4-14-77;8:45 am]

[Doc. No. CP77-160]

TENNESSEE NATURAL GAS LINES, INC.

Application

APRIL 8, 1977

Take notice that on February 3, 1977, Tennessee Natural Gas Lines, Inc. (Applicant), 2008 Parkway Towers, Nashville, Tennessee 37219, filed in Docket No. CP77-160 an application pursuant to Section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), for a certificate of public convenience and necessity authorizing the transportation of natural gas on an interruptible basis for Stauffer Chemical Company (Stauffer), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Stauffer has entered into a contract with Texas Pacific Oil Company, Inc. (Texas Pacific) for the purchase of volumes of natural gas to be produced from certain leasehold interests presently owned or controlled by Texas Pacific in the Beckwith Creek Field in Calcasieu Parish, Louisiana. It is further stated that such gas would be delivered by Texas Pacific to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) for redelivery to Applicant at the presently-existing Nashville Station No. 2, Davidson County, Tennessee.

It is asserted that pursuant to the Commission's order of June 30, 1976, in Docket No. CP76-322 (55 FPC ——), Tennessee is already transporting gas produced by Texas Pacific to East Tennessee Natural Gas Company (East Tennessee) for ultimate use by Stauffer's Mt. Pleasant, Tennessee, plant. It is further asserted that Tennessee and East Tennessee are amending their authorization so as to allow Tennessee to deliver up to 325 Mcf to Applicant for redelivery to Nashiville Gas Company which will in turn deliver the gas to Stauffer's Nashville, Tennessee, plant.

Applicant stater that it will collect an initial transportation charge of 4.0 cents per Mcf (at 14.73 psia) for all quantities of gas transported and delivered for the account of Stauffer.

It is stated that such gas would be used by Stauffer to help offset curtailments from its supplier, Nashville Gas Company, which has caused a loss of 80 percent of the plant's daily output. It is further stated that such gas would be used for the following Priority 2 purposes:

a. In direct-fired drying operations;
b. In direct-fired process in the manufacture of a polymerization catalyst;
c. In a heating system for product drying.

It is stated that Stauffer has contracted to purchase up to 650 Mcf of natural gas per day over a two-year term from Texas Pacific. It is further stated that the present price is $1.50 per million Btu's, which price will increase to $1.60 per million Btu's on January 1, 1978, for the remainder of the term.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 21, 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11015 Filed 4-14-77;8:45 am]

[Doc. No. E-9587]

UPPER PENINSULA POWER CO. AND UPPER PENINSULA GENERATING CO.

Joint Application For Sale and Acquisition of Transmission Facilities

APRIL 8, 1977.

Take notice that Upper Peninsula Power Company (Power Co.) and Upper Peninsula Generating Company (Generating Co.) on March 30, 1977 tendered for filing a joint application for an order authorizing sale and acquisition of transmission facilities pursuant to Section 203(a) of the Federal Power Act.

The applicants indicate that Power Co. seeks to sell and Generating Co. seeks to acquire four short segments of 138 kV transmission facilities and various rights of way to facilitate the latter's construction of new generating units at its Presque Isle Station.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 20, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11014 Filed 4-14-77;8:45 am]

[Project No. 2534]

BANGOR HYDRO-ELECTRIC CO.

Application for Approval of Exhibit R

APRIL 8, 1977.

Public notice is hereby given that an application for Commission approvtl of an Exhibit R (Recreation Use Plan) was filed on September 30, 1974, under the Federal Power Act (16 U.S.C. 791a–825r) by the Bangor Hydro-Electric Company (Correspondence to: Mr. Earle R. Webster, Executive Vice President, Bangor Hydro-Electric Company, 33 State Street, Bangor, Maine 04401) for Milford Project No. 2534, located on the Penobscot River, a navigable waterway of the United States, and in the City of Old Town and the Town of Milford, Penobscot County, Maine.

The Exhibit R submitted by Applicant does not provide for any project recreational development at this time. Approximately 2.2 acres of project lands in the vicinity of the Gillman Falls Dam have, however, been reserved for future recreational development. The Exhibit R also notes that a public park with a boat launching facility is currently being constructed by the City of Old Town, and that the launch will extend 50 feet within the project boundary.

Applicant requests the use of the shortened procedures pursuant to § 1.32 (b) of the Commission's Rules and Regulations.

Any person desiring to be heard or to make any protest with reference to said application should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before May 30, 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 to a proceeding or to participate as a part in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. 825g, 825h) and the Commission's Rules of Practice and Procedure, specifically § 132(b) (18 CRP 1.32(b)), (1976), a hearing may be held without further notice before the Commission on its application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein.

Under the shortened procedure herein provided for, unless otherwise advised, it will not be necessary for applicant to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11096 Filed 4-14-77;8:45 am]

[Doc. No. ER76-320]

CONNECTICUT LIGHT & POWER CO.

Electric Rates

APRIL 11, 1977.

On March 1, 1977, Cities [1] filed a motion for reconsideration of the Commission's February 16, 1977, Order Denying Rehearing in this proceeding. In the alternative, Cities also move for summary judgment. For the reasons hereinafter stated, we shall deny the relief requested.

The question repeated here and answered twice in the negative by our orders of December 23, 1976, and February 16, 1977, is whether Cities should be afforded relief by way of rejection of the rate increase application or enlargement of the suspension period by reason of the alleged understatement of the impact of Connecticut Light and Power Company's (CL&P's) R–3 rates. Our prior orders have made it eminently clear that our actions there were based on a careful review of the facts and circumstances underlying the dispute. Our review disclosed that the differences in the percentage increases estimated in CL&P's filing and those actually billed were the result of differences between estimated and actual operations and the interaction of such operating characteristics with the differing fuel clauses contained in the prior R–2 rate and the presently proposed R–3 rate. We further found that Cities were not deprived of their due-process right to notice. Cities had ample opportunity and means by which to evaluate each of the provisions of CL&P's R–3 rate so as to determine the impact

[1] The pleading does not explicitly identify "Cities"; however, the context of the pleading would indicate that "Cities" are the Connecticut Municipal Group, intervenors herein.

on their monthy bills and to make due provision for recovering such purchased power costs from their customers upon resale.

In the motion for reconsideration, Cities substantially reiterate the same arguments previously considered. Cities stress their contention that they did not receive substantive notice of the amount of increase that they would be experiencing. As we stated in our February 16 order: "Important in these regards is the actual, substantive notice provided to Cities by CP&L's service upon Cities of copies of the filing, to include copies of the new rate schedules." Where the impact of a proposed rate change can be the function of changes in rate design, as here with the fuel adjustment clause, the actual, substantive notice of the proposed schedule of rates takes on added significance. As we pointed out in our December 23, 1976, order, the actual and estimated billing data demonstrates that the average revenue in mills per kWh actually billed under the increased rate was less than that originally estimated by CL&P. This illustrates that no rate design problems should have been incurred in designing the retail rates of the customer in reliance on the rates filed by CL&P.

Cities argue further that the rate application should be dismissed as a matter of summary judgment on the grounds that the estimates of the rate impact were not reliable and probative in accordance with Commission Order No. 487, issued July 1, 1973, where, in promulgating the future test-year regulations, the Commission stated:

> It is also important to note, in response to the concern of many objectors to this rulemaking, that we will not approve rates based on unsubstantiated cost estimations. The burden will be on such companies to establish the validity and accuracy for each of their cost estimates. In addition, these estimates will be subject to full due process standards including discovery, presentation of evidence, briefing, decision and opinion.

The question presented here is not whether the proposed rates should be approved. That question has been set for hearing. The basic question presented at this stage is whether Cities have been afforded their due-process rights to notice. We have answered that question in the affirmative.

The Commission finds: Good cause does not exist to reconsider the Commission's February 16, 1977, order denying rehearing nor to grant summary judgment dismissing the rate application.

The Commission orders:

(A) Cities' motion for reconsideration is hereby denied.

(B) Cities' motion for summary judgment is hereby denied.

(C) The Secretary shall cause the prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11094 Filed 4-14-77;8:45 am]

[Doc. No. ER76-45]

CONSUMERS POWER CO.

Order Approving Settlement; Correction

MARCH 31, 1977.

In FR Doc. 77-7239 appearing at page 13589 in the issue for Friday, March 11, 1977, make the following corrections:

(1) Page 13590, paragraph (B), in line 1, delete "30" and insert "60".

(2) Page 13590, paragraph (C), in line 1, delete the first phrase "Within 30 days after the settlement tariff sheets are accepted for filing," and insert "At the same time that the revised tariff sheets are filed in conformance with the settlement agreement,".

Also in line 1, delete "20" and insert "30", paragraph (D):

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11099 Filed 4-14-77;8:45 am]

[Doc. No. RI77-53]

CRA, INC.

Petition for Waiver of National Rates

APRIL 11, 1977.

Take notice that on April 1, 1977, CRA, Inc., P.O. Box 7305, Kansas City, Missouri, 64116, filed in Docket No. RI77-53, a petition for waiver of the national flowing gas ceiling under Opinion No. 749 pursuant to § 2.56B(h) of the Commission's General Policy and Interpretations and § 1.7(b) of the Commission's Rules of Practice and Procedure for sales of residue natural gas from its Mertzon Plant in Drion County, Texas, to Northern Natural Gas Company (Northern) under its FPC Gas Rate Schedule No. 48 attributable to CRA's purchase of raw gas from Columbia Oil Corporation (Columbia). CRA seeks to collect a rate in excess of such ceiling rate for a limited period sufficient to permit it to recover the cost increase it has incurred as a result of passing on to its supplier, Columbia, the higher rates it was contractually authorized to collect for the resale to Northern of gas purchased from Columbia.

In an effort to obtain new, undedicated gas directly from Columbia which it had available in the vicinity of CRA's Mertzon Plant, Northern arranged with CRA to increase the price for Columbia's existing sales to CRA. Northern on November 19, 1973, amended its residue contract with CRA to increase the rate for the gas purchased by CRA from Columbia, and CRA amended its contracts with Columbia to provide for a 100 percent passback of the higher residue prices which Northern had agreed to pay CRA. Northern subsequently was able to consumate a contract directly with Columbia for the purchase of previously undedicated reserves.

Although CRA immediately began paying Columbia the higher rates provided in the amended CRA-Northern contract, CRA did not file with the Commission either the contract amendment or a rate increase relating thereto at that time. Subsequently CRA did make the necessary filings and began to receive from Northern as of January 1, 1976, the higher rates authorized under its contract amendment.

Petitioner requests Commission approval of a rate increase to recover the $139,425.64 loss which it incurred for the period from November 19, 1973, until January 1, 1976, by paying the higher rate to Columbia and not collecting it from Northern. By letter agreement dated January 3, 1977, Northern has agreed to pay CRA a surcharge of 25 cents per Mcf (14.65 psia) on all flowing residue gas which is attributable to production from the Columbia acreage covered by the November 19, 1973 agreement, between CRA and Northern, until CRA's loss is reimbursed. The 25 cents per Mcf surcharge will not be passed back to Columbia, or its successor. In the event that reserves underlying the Columbia acreage are depleted prior to complete recovery by CRA of its loss, Northern has agreed in the January 1977 agreement to pay the remaining monies to CRA.

Any person desiring to be heard or to make any protest with reference to said application, on or before April 28, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11092 Filed 4-14-77;8:45 am]

[Doc. No. ER77-275]

FITCHBURG GAS & ELECTRIC LIGHT CO. AND BANGOR HYDRO-ELECTRIC CO.

Initial Rate Filing

APRIL 7, 1977.

Take notice that Fitchburg Gas and Electric Light Company ("Fitchburg") and Bangor Hydro-Electric Company ("Bangor") on March 30, 1977, tendered for filing as an Initial Rate Schedule an Electric Generating Capability Sales Agreement. The Agreement provides for the sale by Fitchburg to Bangor of 22.25 MW of electric generating capability during April 1, 1977 through April 30, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 20, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11097 Filed 4-14-77;8:45 am]

[Project No. 1971]

IDAHO POWER CO.

Order Permitting Temporary, Emergency Variance in Condition of License and Providing for Hearing

APRIL 8, 1977.

Idaho Power Company, licensee for Project No. 1971, filed on March 28, 1977, a request for approval of a variance of Article 43 of the license for Project No. 1971, commencing April 5, 1977, and extending through July 1, 1977. The requested variance would retain the minimum flow of 5,000 cfs at Johnson's Bar, but would permit a maximum variation in river stage of one foot per 20 minutes instead of one foot per hour. It would eliminate the minimum flow requirement of 13,000 cfs at Lime Point. The purpose of the variance would be to permit greater storage in Brownlee Reservoir during the run-off period so as to permit the later use of that stored water for hydroelectric generation and other beneficial purposes. Without the variance, it will be impossible to fill Brownlee Reservoir because the Idaho area is experiencing the worst drought in recorded history.

The Governor of Idaho has requested the Commission to grant the request. He stated that very serious electrical power shortages will undoubtedly occur affecting all segments of the Idaho population and economy if the Brownlee Reservoir is not kept at its maximum feasible height for summer and fall power generation. The Commission has received letters concurring in the proposed variance from the Secretary of the Interior, U.S. Corps of Engineers, National Marine Fisheries Service, and Idaho Public Utilities Commission.

The Commission has also received a number of filings made on April 5, 6, and 7, 1977, that state opposition to granting the licensee the requested variance of Article 43 of the license. These filings in opposition state concerns respecting the reach of the Snake River below the project, and it appears that at least in large part those protesting are concerned primarily with the effect of the variance on boating in downstream reaches. Four of these filings specifically request a hearing.

We are, of course, aware of the severe drought conditions that are occurring in the Pacific Northwest and in other areas of the Nation. In view of the support of, and concurrence in, the requested variance that has been given by the U.S. Army Corps of Engineers, the Secretary of the Interior, the National Marine Fisheries Service, the Governor of the State of Idaho, who also reports agreement of the Governors of the States of Oregon, and Washington, and the Idaho Public Utilities Commission, we believe the requested variance should be permitted, on a temporary, emergency basis, provided that a hearing be held promptly to give to those having opposing views the opportunity to be heard further.

Accordingly, we permit the requested variance only as a temporary, emergency measure and direct that a public hearing be held in Lewiston, Idaho, on April 22, 1977. The hearing shall, of course, be a public hearing session and shall include the taking of evidence either in opposition to or in support of the requested variance of Article 43, or with respect to any alternative proposal. Promptly on competition of the hearing, the record shall be certified to this Commission so that we may consider what further action may be appropriate.

We, therefore, will approve, on a temporary, emergency basis, the variance of Article 43 of the license for Project No. 1971 effective as of April 7, 1977, and continuing until July 1, 1977, or until further order of the Commission. Additionally, the approved temporary variance will be conditioned to provide that the licensee (1) take appropriate measures to warn the public of periods of rapid river stage fluctuations, and (2) coordinate with the U.S. Corps of Engineers in establishing flow releases under the temporary variance.

Our granting of this temporary variance as an emergency measure is, of course, without prejudice to any further action which may be appropriate respecting releases from the Hells Canyon Development of Project No. 1971.

We observe that a request for compensation for any losses resulting from the requested change in operation of Project No. 1971 has also been included in these filings opposing the variance. It should be noted that under the Federal Power Act this Commission does not have authority to award any damages (see Idaho Power Company, Project No. 1971, 29, FPC 572).

We are aware of the concerns in this proceeding. While the interest in avoiding a possible crisis in electric power supply is appreciated, we also recognize the need to afford all affected persons a meaningful opportunity to be heard in opposition to the proposed variance. The exigencies of time dictate that the hearing be carried out as expeditiously as possible. Accordingly, we will not require the parties to file sworn and notarized copies of direct testimony prior to commencement of the hearing. All parties to the proceeding, including any persons who have, as of the date of issuance of this order, filed with the Commission statements in support of, or in opposition to, the variance, will be permitted to participate as parties so as to present or cross-examine oral testimony by sworn witnesses at the hearing. A list of persons who are thus allowed to participate as parties will be furnished by the Commission's Secretary to all on the list. Any person who is not a party but who submits a petition to intervene that is pending before the Commission will be allowed to participate in a like manner. All other participation will be limited to presentation into the record of unsworn oral or written statements of position. Such statements do not constitute evidence. While the Commission will consider the statements in reaching a determination on the matter at hand, that determination must ultimately be based on the evidentiary record.

In the interest of expediting the hearing and ensuring a complete record, all parties are encouraged to consider cooperating in depositions or stipulations that may be entered into the record at the commencement of the hearing. Upon the close of the hearing record, all parties will have five days within which to review the record and file briefs, comments, or statements of position on the basis thereof.

The Commission finds: (1) It is appropriate and in the public interest for the purposes of the Federal Power Act to hold a hearing on the matters and issues presented respecting the variance from Article 43 of the license for Project No. 1971 requested by the licensee on March 28, 1977.

(2) In the circumstances, it is appropriate and in the public interest for the purposes of the Federal Power Act to permit, on a temporary emergency basis, the requested variance from Article 43 of the license for Project No. 1971, provided that a hearing be promptly and expeditiously held.

(3) In the circumstances, the period of notice of hearing provided by this order is reasonable and consistent with the public interest.

(4) In the interest of expedition, all governmental entities, individuals, and groups that have filed comments, as of the date of this order, on the request for variance, may participate as parties in the hearing set by this order, without

the filing of petitions for intervention; all others who have not filed comments as of the date of this order should file petitions to intervene pursuant to the Commission's rules if they desire to participate as a party in the hearing.

(5) Copies of this order should be served on the licensee and on all governmental entities, individuals, and groups that have filed comments as of the date of this order on the request for variance.

The Commission orders: (A) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly Sections 10 and 308 thereof, and the Commission's Rules of Practice and Procedure a public hearing shall be held at 9:30 a.m. local time, on April 22, 1977, in the Courtroom of the Nez Perce County Court, Lewiston, Idaho, respecting the matters involved and the issues presented in finding (1) above.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to § 3.5(d) of the Commission's Regulations, 18 CFR 3.5(d) (1976), shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates and to rule on all motions with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Commission's Rules of Practice and Procedure.

(C) The Commission's Rules of Practice and Procedure shall apply in this proceeding except to the extent they are modified and supplemented herein.

(D) All governmental entities, individuals, and groups that have filed comments, as of the date of this order, on the request for variance, are hereby permitted to participate as parties in the hearing set by this order.

(E) All briefs, comments, and statements of position by the parties and the Commission Staff on the basis of the hearing record shall be filed with the Commission within five days following the date upon which the hearing record is closed.

(F) Effective as of April 7, 1977, and continuing until July 1, 1977, or until further order of the Commission, the variance of Article 43 of the license for Project No. 1971 requested by Idaho Power Company is hereby approved, subject to the conditions hereinafter imposed. The approved variance shall be as follows:

Idaho Power Company shall not be required to maintain the 13,000 cfs flow in the Snake River at Lime Point. The minimum flow shall be 5,000 cfs at Johnson's Bar, at which point the maximum variation at river stage shall not exceed one foot in 20 minutes of time. This reduction of flow at Lime Point will be subject to the condition that during the period of the "fish operation," which will be requested by the fisheries agencies of Idaho, Washington and Oregon, operation of the project will be such that there will be an average of 13,000 cfs during each 24 hour period at Lime Point. This fish operation will occur in May of 1977 and could last for two or three weeks. It is for the purpose of assuring downstream migration of juvenile salmonids.

Our approval of the variance is subject to the following conditions:

(i) Licensee shall take appropriate measures (signs, sirens, and other devices) to warn the public of periods of rapid river stage fluctuations.

(ii) Licensee shall coordinate with the Corps of Engineers in establishing flow releases consistent with the above authorization.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11095 Filed 4-14-77;8:45 am]

[Doc. No. ER77-276]

NIAGARA MOHAWK POWER CORP.

Cancellation

APRIL 7, 1977.

Take notice that Niagara Mohawk Power Corporation, on March 31, 1977, tendered for filing proposed changes in its FPC Electric Service Tariff No. 50. The proposed change is the cancellation of the "Power Pool Participation" agreement between Niagara Mohawk Power Corporation and New York State Electric and Gas Corporation.

Niagara indicates that this agreement has been superseded by subsequent agreements. These are: The New York Power Pool Agreement on file as Niagara Mohawk Power Corporation Rate Schedule FPC No. 93 and the New York Power Pool–PJM Agreement on file as Niagara Mohawk Power Corporation Rate Schedule FPC No. 86.

A copy of the filing was served upon New York State Electric and Gas Corporation, Ithaca, New York 14850.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 20, 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 application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11098 Filed 4-14-77;8:45 am]

[Doc. No. RP75-19; Opinion No. 792]

TEXAS GAS TRANSMISSION CORP.

Proper Methods for Cost Classification, Cost Allocation, and Rate Design and Deciding Zone Boundaries Issue

APRIL 11, 1977.

APPEARANCES

Christopher Boland, John Harrington, Robert O. Koch and Steve Finch on behalf of Texas Gas Transmission Corporation.

H. Kent Howard on behalf of Indiana Gas Company, Inc.

Richard J. Flynn, Frederick G. Berner, Joseph B. Thompkins, Jr. and Charles V. Shannon on behalf of Michigan Wisconsin Pipe Line Company.

Albert J. Feigen on behalf of Terre Haute Gas Company.

Charles R. Brown, Norman A. Flaningam, George L. Weber, Henry P. Sullivan and David E. Weatherwax on behalf of Consolidated Gas Supply Company.

W. P. Saviers, Jr., D. L. Bell, Jr., and Giles D. H. Snyder on behalf of Columbia Gas Transmission Corporation.

Dana Fox and J. David Mann, Jr. on behalf of the City of Hamilton, Ohio.

George E. Morrow and Reuben Goldberg on behalf of Memphis Light, Gas & Water Division.

O. Grant Bruton on behalf of Louisville Gas & Electric Company.

Stephen J. Small, Tilford A. Jones, Wallace R. Barnes and Roger O. Post on behalf of Columbia Gas of Ohio, Inc.

Peyton G. Bowman III, August L. Griesedieck and John M. Kuykendall on behalf of Arkansas-Missouri Power Company and Mississippi Valley Gas Company.

Gloria M. Sodaro on behalf of the Staff of the Federal Power Commission.

BACKGROUND

This proceeding arises from a rate filing tendered on September 30, 1974, by Texas Gas Transmission Corporation (Texas Gas) for a proposed increase in jurisdictional revenues of $27,978,836. By order issued October 30, 1974, the Commission accepted for filing and suspended Texas Gas' rate filing for five months until April 1, 1975, and established hearing procedures to determine the justness and reasonableness of the proposed rates and charges. By orders issued January 23, 1975, and April 1, 1975, several parties were granted intervention in this proceeding.[1]

[1] Columbia Gas of Ohio, Inc., Ohio Valley Gas Corporation, The City of Columbus, Ohio, Western Kentucky Gas Company, The City of Hamilton, Ohio, Memphis Light, Gas and Water Division, Texas Eastern Transmission Corporation, Jackson Utility Division of City of Jackson, Tennessee, Southern Indiana Gas and Electric Company, Columbia Gas Transmission Corporation, Rochester Gas and Electric Corporation, The Public Service Commission of the State of New York, Corisolidated Gas Supply Corporotion, Hoosier Gas Corporation, Public Service Electric and Gas Company, The Tennessee Public Service Commission, Terre Haute Gas Corporation, Michigan Wisconsin Pipe Line Company, United Cities Gas Company, The Cincinnati Gas & Electric Company and Lawrenceburg Gas Transmission Corporation, Louisville Gas and Electric Company, Indiana Gas Company and Ohio River Pipeline Corporation, Mississippi Valley Gas Company and Arkansas-Missouri Power Company.

Thereafter, settlement conferences were held among the parties which resulted in a stipulation and agreement that was filed with the Commission together with a motion for approval on June 12, 1975. The stipulation and agreement resolved most of the issues in the proceeding but reserved several for hearing and decision. The issue of the level of the rate to be used for book depreciation and the issue involving the propriety of including in Texas Gas' cost of service costs associated with the acquisition of coal reserves for coal gasification were reserved and made subject to the Commission's final determination in another Texas Gas rate proceeding in Docket No. RP74-25.[2] Furthermore, the stipulation and agreement provided for a hearing on the issues to be determined in this opinion and order, i.e. the issues of the proper methods of: cost classification, cost allocation, rate design and location of zone boundaries. By order issued October 6, 1975, ___ FPC ___ (1975) the Commission approved the proposed stipulation and agreement subject to conditions not relevant to this proceeding and established hearing procedures on the reserved issues which are to be determined herein.

Hearings were held on the reserved issues on December 2 and 3, 1975, and on May 11, 1976. Presiding Administrative Law Judge Michel Levant issued an Initial Decision in this proceeding. Briefs on exception were filed by the Commission Staff and Memphis Light, Gas and Water Division (Memphis). Briefs opposing exceptions were filed by Texas Gas, the Commission Staff[3] and Consolidated Gas Supply Corporation and Columbia Gas Transmission Corporation (Columbia and Consolidated).

Positions of the Parties

COST CLASSIFICATION AND COST ALLOCATION

Texas Gas, the Commission Staff and Columbia and Consolidated are in agreement that the unmodified Seaboard[4] method should be used for purposes of cost classification and cost allocation, including distribution of mileage-related transmission costs among Texas Gas' four rate zones. They allege, among other things, that the Seaboard method is appropriate because: (1) there is no substantial underutilization of Texas Gas' system on the peak day as in United;[5] (2) United would upset historical zone differentials, and thus historical revenue patterns among Texas Gas' jurisdictional customers; (3) United Gas Pipe Line is like a grid system whereas Texas Gas is a "long line" pipeline transmission system; and (4) United discriminates against customers such as Consolidated and Columbia which have installed storage and other peak-shaving devices to improve their load factors.

Memphis, on the other hand, urges use of the United method of cost classification arguing, inter alia, that this approach is consistent with recent Commission policy and distributes the costs associated with Texas Gas' increasing unutilized capacity (on an annual basis) more fairly among Texas Gas' jurisdictional customers and that the alleged distinctions between the United case and the instant case are not significant. However, in allocating demand costs between jurisdictional and non-jurisdictional customers and among Texas Gas' rate zones, Memphis uses the respective customers' average day "Quantity Entitlement" volumes as determined by Texas Gas' curtailment plan rather than 3-day average peak volumes, the method used by the other parties to this proceeding. Memphis argues that this method represents a fairer distribution of costs among Texas Gas' customers.

RATE DESIGN

Having distributed the mileage-related transmission costs among the four zones using the Seaboard method, Staff and Texas Gas recommend that the rates be designed using the United Method. Staff argues, among other things, that: (1) United eliminates to some extent the price discount for large volume users; (2) it more nearly reflects the utilization of Texas Gas' system in a curtailment situation; (3) it reflects the fact that the supply of natural gas, rather than the capacity of the system, is the limiting factor on Texas Gas' system; and (4) United narrows the gap between the commodity cost of natural gas and the price of alternative fuels. Memphis also recommends the United method for rate design in conjunction with the cost classification and cost allocation techniques it recommends, which were discussed previously herein.

Columbia and Consolidated argue for the use of the Seaboard method for rate design arguing, inter alia, (1) that the United method will not limit the consumption of natural gas on Texas Gas' system; (2) United penalizes high load factor customers with storage; (3) United fails to consider the differing load factor of Texas Gas' customers; and the facts in the United case are significantly different from those raised in the instant proceeding.

Memphis argues for use of the United method of rate design with the demand rates being calculated for Texas Gas' jurisdictional customers by each customer's respective average daily "Quantity Entitlement" volumes as opposed to the customer's contract demand billing units, as proposed by the other parties to this proceeding. Memphis argues that since it, as well as other customers of Texas Gas, can no longer demand its total contract demand volumes on most days of the year, it is not reasonable that customers should continue to pay demand rates based upon their respective contract demand.

ZONE BOUNDARIES

Although no parties challenged the Presiding Judge's initial decision on this issue, Louisville Gas and Electric Company (Louisville) argued before the Presiding Judge for a readjustment in the historic zone boundaries such that it and several other customers would be located in Zone 3 rather than in Zone 4. Texas Gas, staff, and Consolidated and Columbia all oppose the proposed changes, as did the Presiding Judge. All parties, however, agreed to the proposed shift from the zone-gate to the Mcf-mile method for allocating transmission costs.

MISCELLANEOUS

As of the time of the Initial Decision, all parties had agreed that Staff's classification of: (1) payments made by Texas Gas to Michigan Wisconsin for transmission of gas located in the Gulf of Mexico to various points of delivery in the southern portion of Texas Gas' onshore system and (2) payments to other pipelines for transmission of gas was proper. For the reasons set forth in the Initial Decision (mimeo pp. 5–6), the Commission agrees and affirms the Initial Decision on these issues. The Commission also concurs with the now-agreed upon treatment of "as billed" demand charges from pipeline transporters and suppliers as demand costs for the reasons set forth in the Initial Decision (mimeo, p. 6). In view of the preceding no further discussion of these miscellaneous issues is required in this opinion.

Initial Decision

COST CLASSIFICATION AND COST ALLOCATION

The Presiding Judge found that the unmodified Seaboard method of cost classification and cost allocation was most appropriate for use on Texas Gas' system. The Judge found unpersuasive the argument of Memphis that the United opinion required the use of the "25–75" method for cost classification and cost allocation on Texas Gas' system. The Initial Decision (mimeo, p. 10) cites with approval the "distinctions" between United and the instant case which were proferred by Texas Gas' Witness Joseph Benson:

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[2] On August 3, 1976, Judge Kaplan issued an Initial Decision in that proceeding. The case is currently pending before the Commission on exceptions to that decision.

[3] For good cause shown, the Commission shall grant Staff's request to file its Brief Opposing Exceptions out of time.

[4] Atlantic Seaboard Corporation, 11 FPC 43 (1952); Northern Natural Gas Company, 11 FPC 123 and 375 (1952), aff'd 206 F. 2d 690, cert. denied 346 U.S. 992. This method provides that 50 percent of storage and transmission (but not production) fixed costs and all "as billed" demand costs be recovered in the demand component of Seaboard's two-part rates while the remaining 50 percent of transmission and storage fixed costs, all production costs (with the exception of "as billed" demand costs), and all variable costs be recovered through the commodity component.

[5] The United method takes it name from the Commission's decision in United Gas Pipe Line Company, Opinion No. 671, 50 FPC 1348 (1973), rehearing denied, 51 FPC 1014 (1974); aff'd sub nom., *Consolidated Gas Supply Corporation, et al. v. Federal Power Commission*, 520 F. 2d 1176 (D.C. Cir., 1975). Simply stated, it provides that 25 percent of the fixed transmission and storage costs and all "as billed" demand costs be classified to the demand component, and the remaining fixed costs together with all variable costs be classified to commodity.

(1) In United, non-jurisdictional sales amounted to 32.36 percent of total system sales whereas Texas Gas' non-jurisdictional sales were less than 1 percent (0.84 percent).

(2) In United, most of the peak day requirements were being curtailed, materially, whereas Texas Gas' customers' peak day requirements were not.

(3) In United, the use of the 25 percent-75 percent classification of costs before allocation shifted substantial costs from jurisdictional to non-jurisdictional sales which had markedly different and lower priorities of service. In sharp contrast, the use of that method in the instant proceeding will merely shift costs from one group of jurisdictional customers to another whose sales are substantially of the same priority of service.

(4) United's system is more akin to a grid pipeline whereas Texas Gas is a longline pipeline system.

Judge Levant placed particular emphasis on the contention that use of the United method would "penalize" high load factor customers such as Columbia, Consolidated, Louisville and Texas Eastern Transmission Corporation (Texas Eastern) which take gas at the northern terminus of the system and have extensive storage operations.[6] Another reason for the adoption of Seaboard by the Presiding Judge is to preserve historic zone cost differentials. Judge Levant also cites with approval four Initial Decisions which also approve the use of the Seaboard method.[7]

With respect to Memphis' proposals to allocate demand costs among Texas Gas' customers based upon each customer's average daily "Quantity Entitlement"[8] of gas, the Judge found that the average of the three day annual system peak was more appropriate than the Average Quantity Entitlement (AQE) method advocated by Memphis. The Judge cites with approval the arguments of Texas Gas and others that the annual peak day usage is still significant on the Texas Gas system because Texas Gas is able to meet all of its customers' demands for gas (including those of Memphis) on that day, in spite of curtailments on an annual basis on the system (mimeo, p. 12). It is argued that Memphis' approach is basically a volumetric approach similar to that which was "rejected" by the Commission in United as being "disruptive". Furthermore, it is alleged that any deviation from the unmodified Seaboard method will penalize those high load factor customers with storage. Memphis is said to receive adequate compensation for its curtailment from the operation of Texas Gas' demand charge adjustment provision which credits a customer's demand charge billing to reflect curtailments to that customer and recovers these amounts from all of the pipeline's customers through a surcharge on the commodity rate. The Judge notes that although, as Memphis alleges, it is being curtailed 47 percent from its contract demand, it is only being curtailed 12 percent from its prior actual purchases which compares to the 6 percent to 17 percent curtailment figures of the pipeline customers, who had been purchasing at close to 100 percent load factor. Accordingly, the Presiding Judge found no compelling reason to depart from the historical 3-day average peak method for allocating demand costs.

RATE DESIGN

Again, the Presiding Judge found the unmodified Seaboard method appropriate; albeit this time for rate design purposes. The Judge argues that the United case is distinguishable from the instant case because there are no substantial low priority direct industrial sales and no peak day curtailments on the Texas Gas system and there is a demand charge adjustment provision in Texas Gas' FPC Gas Tariff. He also argues that a switch from Seaboard to United would produce insubstantial changes in cost responsibility which would not in any significant way bring the price of natural gas closer to the cost of alternate fuels.

RATE ZONES

As discussed earlier, the Presiding Judge found that (1) no change in the zone boundaries is supported by the evidence in the record, and that (2) Texas Gas' switch from the zone gate to the Mcf-mile method of allocating transmission costs is appropriate. No exceptions were filed on these issues. Upon review of the record in the proceeding, the Commission concurs and accordingly, affirms the Presiding Judge's Initial Decision on these issues.

DISCUSSION

For the reasons set forth below, the Commission finds that the United method of cost classification, cost allocation, and rate design is appropriate for use on the Texas Gas system.

COST CLASSIFICATION AND COST ALLOCATION

The United method of cost classification and cost allocation is appropriate for use on Texas Gas' system because it appropriately allocates costs between Texas Gas' jurisdictional and non-jurisdictional customers and, more importantly, among Texas Gas' four rate zones. In conjunction with this finding, the Commission has determined that the 3-day average peak method for allocating demand costs among the zones and between jurisdictional customers is appropriate for Texas Gas based on the record of this case. In view of the effects of the Mcf-mile zone allocation, it is appropriate to discuss exactly how a United methodology, with the average 3-day peak method and the Mcf-mile method of allocating transmission commodity and demand costs, would be implemented.

In the first instance, all costs would be functionalized as transmission, storage or production costs. Then the transmission and storage costs would be classified as either variable costs or fixed costs. Under United 25 percent of storage and transmission fixed costs are classified to the demand component and the remaining 75 percent of such fixed costs plus all of the storage and transmission variable costs are classified as commodity costs. All of the production costs are classified as commodity costs with the exception of "as billed" demand charges which are classified as demand costs.

Production commodity costs are allocated to zones based upon annual sales volumes and production demand costs (i.e. "as billed" demand charges) are allocated based upon 3-day average peak volumes. Storage demand and commodity costs are allocated on the basis of 3-day average peak volumes and seasonal volumes, respectively. Mileage-related transmission demand and commodity costs are costs which, by definition, are related to the distance the gas travels and are allocated to zones based upon demand Mcf-miles and commodity Mcf-miles, respectively. Other transmission costs such as sales expense, customer accounting and administrative and general expense are not mileage-related and are therefore allocated based upon 3-day average peak and annual volumes, respectively, without regard to the distance the gas has traveled. At this point, there is an amount of jurisdictional demand and commodity dollars, respectively, allocated to each of Texas Gas' four rate zones.[9] The next step would, of course, be to distribute the jurisdictional costs in each zone among the jurisdictional customers in that zone through the design of rates, a subject which will be discussed in the next section of this opinion.

As noted by all parties to this proceeding, the most significant impact resulting from the use of the United method as opposed to the Seaboard method of cost classification and cost allocation is the distribution of mileage-related transmission costs among the four zones. A comparison of the United method (using 3-day average peak volumes to allocate demand costs) and the Seaboard method of cost classifica-

[6] The investment in storage plant and gas stored by Texas Gas' large volume high load factor Zone 4 customers on December 31, 1974, is shown as follows (Tr. 246):

	Storage plant investment on Dec. 31, 1974	Gas stored investment on Dec. 31, 1974
Columbia	$206,333,154	$106,205,520
Consolidated	146,801,149	90,416,423
Texas Eastern	112,475,467	27,631,519
Louisville G&E	20,671,000	10,933,000

[7] Tennessee Gas Pipeline Company, Docket No. RP73-113, Initial Decision, issued February 3, 1975; Natural Gas Pipeline Company of America, Docket No. RP73-110, Initial Decision, issued February 13, 1975; Michigan Wisconsin Pipeline Company, Docket Nos. RP73-102, et al., Initial Decision, issued March 31, 1975; Transcontinental Gas Pipe Line Corporation, Docket Nos. RP74-48, Initial Decision, issued December 22, 1975.

[8] The "Quantity Entitlement" for each customer was a volume of gas based on an historical test period which represented the gross annual quantity of gas from which curtailments would be measured.

[9] See pages 33 and 34 of the transcript which set forth Staff Witness W. S. Chinn's explanation of the manner of allocating the demand and commodity costs of the various functions.

tion and cost allocation indicates that use of the Seaboard method would shift approximately $3 million from zone 4 at the northern terminus of the system to zones 1, 2 and 3 in the southern part of the system. (Exhibit No. 24, Schedule 1, Column (11)). The effect on the allocation of costs between jurisdictional and nonjurisdictional sales is not substantial because nonjurisdictional sales represent less than 1 percent (.84 percent) of Texas Gas' annual sales volumes (Tr. 244).

The issue then is whether or not the high load factor customers such as Texas Eastern, Columbia, Consolidated and Louisville should pay more of the pipeline system's costs because of a shift to a United cost classification and cost allocation method or whether Seaboard should be maintained so as to prevent a shift in the historical zone cost responsibility. At the outset, the Commission notes that historical cost responsibility patterns per se are not determinative of whether or not a given cost distribution method is appropriate. They are perhaps most important in cases such as the United case [10] where the Commission found that a volumetric cost classification, cost allocation and rate design methodology was supported by the record evidence but declined, as a matter of judgment, to go all the way to such a methodology in one step so as to make the eventual shift more gradual. Historical cost patterns are also significant in cases where there has been no substantial change in circumstaces since the time of a prior Commission determination in a litigated proceeding to justify a change in the cost distribution methodology.

The most critical factor in favor of using the United method is the degree of curtailment on the Texas Gas system. The recent history of Texas Gas' curtailment situation is set forth in the testimony of Staff Witness Chinn (Tr. 40-41):

> Texas Gas originally planned to curtail on a gradual basis commencing with 100,000 Mcf per day on April 1, 1974 and increasing to 300,000 Mcf per day on April 1, 1976. However, as gas shortage becomes acute, the Company began a 450,000 Mcf per day summer curtailment (April 1 through October 31) and contemplated a 300,000 Mcf per day winter curtailment (November 1 through March 31). Under the plan each customer is assigned a seasonal entitlement and sales are to be curtailed based on end-use. The summer curtailment is 23.25 percent with sales of Priority 4 through 9 [being] completely cut-off and Priority 3 [being] reduced to 50 percent. And the winter curtailment is 13.03 percent with sales of Priority 3 through 9 [being] completely cut-off and Priority 2 [being] reduced by 4 percent.

Thus, although the record indicates that there is not severe underutilization of the system on the peak day on the Texas Gas system [11] at this time as there was on the United system (17 percent), there is quite substantial underutilization of Texas Gas' system on an annual basis. Thus, the limiting factor on Texas Gas' system is the reduced supply of natural gas and not pipeline capacity.[12] Therefore, it is appropriate for the Commission to shift more fixed costs to the commodity component from the demand component so as to allocate more of Texas Gas' costs on the basis of annual rather than 3-day average peak day sales volumes. In this manner, customer cost responsibility is made to parallel more closely customer usage of the pipeline's facilities.

However, it is argued that a shift from Seaboard to United at this stage in the cost distribution process will unfairly burden or discriminate aganist high load factor customers such as Columbia and Consolidated in zone 4 which have invested substantial sums of money in storage facilities and conversely would unfairly benefit lower load factor customers such as Memphis in the southern zones of Texas Gas' system. Witness Chinn discusses the differences between high load factor and low load factor customers in times of natural gas shortage on a pipeline system. Although his testimony is used to support a United rate design (based upon the use of the Seaboard formula at the cost classification and cost allocation stage, it is equally applicable to support the use of United at the cost classification and cost allocation stage since, in this case, it affects the distribution of dollars among zones, and thus among jurisdictional customers. Witness Chinn states that:

> Seaboard was developed in a period when natural gas was cheap and plentiful, which is no longer true today. It results in too great a cost advantage to high load factor customers which in gas supply shortage situations is indefensible. Texas Gas is in curtailment which means the pipeline is not operating as before. (Tr. 40)

Witness Chinn continues by describing in general the effects of curtailment on Texas Gas' system:

> Curtailment creates excess capacity. It also changes the character of operation. Texas Gas' pipeline capacity was designed to meet each customers' maximum contract quantity or contract demand. Contract Demand as that term is used in the tariff means the customer has the right to demand every day of the year from the pipeline to deliver the quantity of gas he has under contract and the pipeline is obligated to deliver it because the necessary capacity has been installed. Since the pipeline cannot meet that delivery every day, the importance of a demand rate for a demand service has diminished.
>
> The inability to make demand delivery is not due to capacity but supply. Moreover, each customer is allocated a seasonal supply. While the customer may take gas up to his contract quantity, such rate of take would soon exhaust his allotment.
>
> Pipeline fixed costs remain constant regardless of curtailment level and the volumes of throughput must bear the costs; therefore, as the gas is sold a greater portion of the fixed costs should be recovered * * * (Tr. 41-42)

With respect to storage and other peak-shaving devices, the argument is made that customers such as Columbia and Consolidated installed storage in response to encouragement by the Commission in the 1950's and especially in the 1960's in the Seaboard form of cost classification and two part demand-commodity rate design methodologies. In many cases the rate design was "tilted" (by assigning more fixed costs to the demand component),[13] to encourage high load factor utilization of the pipeline supplier's system. Thus, these parties argue that to remove, even in part, the discount which they have enjoyed in the past and continue to enjoy because of storage facilities, is "discriminatory". They argue further that had the customers such as Columbia and Consolidated not invested in storage facilities when they did, Texas Gas would have been required to install more capacity to meet their peak demands, and the fixed costs associated with that capacity would now be burdening Texas Gas' present customers.

These arguments are not persuasive.[14] In the first instance, it is important to put the discussion in perspective. Placing more fixed costs in the commodity component, as in the case of moving from Seaboard to United, removes to some extent the differences in average unit cost of gas between the high load factor and the low load factor purchaser. It does not make the high load factor customer's average unit cost of gas as high as that of the lower load factor customer. Furthermore, there is evidence that Columbia and Consolidated's use of their storage facilities would not be affected by a switch from Seaboard to United. Columbia and Consolidated's Witness Davidson indicated on cross-examination that Columbia and Consolidated would "* * * use the (storage) facilities under any rate design." (Tr. 215)

As to the "discrimination" argument, it should first be noted that Columbia and Consolidated also purchase gas directly from producers as well as directly from other pipeline suppliers.[15] Thus, the argument that Columbia and Consolidated, in the face of increased demands by their respective customers in the past for peak day gas service, had to construct storage facilities as the only alternative to requesting more peak day service from Texas Gas, is clearly too speculative a basis for refraining from adopting cost distribution methods suited to present operating conditions on the

[10] See footnote 5, supra.

[11] Texas Gas' FPC Gas Tariff Third Revised Volume No. 1 indicates that the design capacity of the system is 2,656,682 Mcf. For purposes of this case, no party contests the average of the 3-day peak figure of 2,427,080 Mcf used by Staff Witness Chinn (Exh. No. 18, Schedule 2, Sheet 2). Texas Gas' 1974 Form No. 2 indicates a comparable figure of 2,461,104 Mcf for the average of January 12-14, 1975, and its 1975 Form No. 2 indicates a figure of 2,471,106 Mcf for the average of January 7-9, 1976.

[12] See also, Natural Gas Pipeline Company of America, Opinion No. 782,—— FPC ——, issued November 9, 1976, in Docket No. RP73-110.

[13] United Fuel Gas Company, et al., 31 FPC 1342 (1964).

[14] Indeed, as Memphis points out, many of these same arguments were considered by the Commission and rejected in the United case. (See esp. 51 FPC at 1017 and 1018.)

[15] Columbia and Consolidated Brief Opposing Exceptions, pp. 2-3.

Texas Gas system. Moreover, since storage facilities provide the owner thereof with many advantages, such as operating flexibility, increased reliability of service and higher curtailment priority, the decision to construct such facilities is clearly based on more than a desire to achive lower average unit costs of purchased gas. In any event, customers of Texas Gas with storage, such as Columbia and Consolidated, have enjoyed price discounts (through lower than average unit costs of purchased gas) because of their high load factor purchases under Seaboard and "tilted" Seaboard rate designs and will continue to enjoy discounts under the United method, albeit to a lesser extent.

With respect to Texas Gas' Witness Benson's point that United in Opinion No. 671 made approximately 32.36 percent of its annual sales to non-jurisdictional customers whereas Texas Gas in the instant case has made only .84 percent of its sales to non-jurisdictional customers, the Commission notes again that the shift to the United method of cost classification and cost allocation in the instant case will have a minimal effect on the total dollars distributed to the jurisdictional and the non-jurisdictional classes of customers, respectively. However, use of the United method is significant in that it properly allocates costs to Texas Gas' rate zones for the reasons discussed above.

Similarly, Witness Benson's statement regarding the "long-line" nature of Texas Gas' system versus the "gridlike" nature of the United system is no basis for retaining the Seaboard method on the Texas Gas system. As discussed previously, the cost distribution methodology adopted in this opinion, which includes the use of the Mcf-mile method for allocating mileage-related transmission costs, appropriately distributes costs among Texas Gas' customers so as to reflect not only the curtailment conditions on the Texas Gas system but also the different distances gas must travel to reach each of Texas Gas' customers. The United case, with its two-zone methodology (also based on distance) used in conjunction with the 25–75 cost classification approach, appropriately reflected the operating conditions of the United Gas Pipe Line system, which was more akin to a "grid" system than is the Texas Gas system.[16] Thus, the distinction discused by Mr. Benson has been given appropriate consideration in each case. In any event, it should be noted that both United and Texas Gas serve their pipeline customers in their northernmost zones at high load factors whereas their respective lower load factor city-gate customers are served in their southern zones.

Finally, the Commission finds unpersuasive Mr. Benson's contention that since the Texas Gas-Staff method (Seaboard cost classification and cost allocation with United rate design) allocates approximately the same dollars to the commodity component of Texas Gas' rates overall (albeit to different jurisdictional zones and customers) as does the "pure" United method, there is no need to disturb existing zone cost responsibility patterns because the Commission's purported main goal of discouraging industrial sales by distributors through a shift of fixed costs to the commodity component can be met by either method. As will be discussed in the rate design section of this opinion, the Commission agrees that it is important to partially close the gap between the price of natural gas used for industrial purposes and the price of alternate fuels (as was done in the United case) by shifting more costs to the commodity component. However, the primary thrust of any cost distribution methodology, is to distribute costs among a pipeline's customers in accordance with their respective cost responsibilities. Thus, even if "narrowing the price gap" considerations are put aside, the United method of cost classification and cost allocation must be adopted herein because, as previously discussed, it properly distributes costs among Texas Gas' customers by utilizing annual deliveries as the principal measure of cost responsibility.

MEMPHIS' AVERAGE DAY METHOD FOR DEMAND COST ALLOCATION

As indicated previously, Memphis proposes an alternate method of allocating demand costs based upon average day "Quantity Entitlements" of each customer, a method similar to the volumetric allocation method which is based upon annual sales volumes. The arguments in the instant case (as in the United case) for the Average Quantity Entitlement (AQE) method are essentially the same as those for the United method. Further, the Commission has agreed with arguments in favor of the United method. However, as a matter of policy and judgment, the Commission has determined that for the purposes of this opinion, it will not adopt the AQE method for allocating those fixed costs classified to the demand component.[17] Accordingly, demand costs shall be allocation between the jurisdictional and non-jurisdictional classes of customers and among rate zones based upon the average three-day peak sales volumes and, as discussed later, among jursidictional customers in each rate zone by billing determinants based upon contract demand.[18] In future cases, however, the Commission will continue its review of the operations of Texas Gas' system and determine whether a further shift in cost distribution methodology is in the public interest.

Rate Design: Based upon the record evidence in this proceeding, the Commission finds that the United rate design method, using contract demand billing determinants to calculate demand charges, should be adopted in this proceeding. Many of the arguments used to support the United method of cost classification and cost allocation are applicable to the rate design issue because, in both instances, distribution of costs among jurisdictional customers is a major consideration.

The United rate design method is appropriate for use on the Texas Gas system because it reflects a more equitable distribution of costs among its jurisdictional customers based upon the levels of curtailment now existing on the system.[19] As noted earlier herein, it is the supply of natural gas rather than capacity of the system which is the limiting factor on the Texas Gas system today. The Commission recently discussed this factor, along with Commission authority in the rate design area, in Natural Gas Pipeline Company of America, Opinion No. 782, ___ FPC ___ issued November 9, 1976, in Docket No. RP73–110:

> Our decision to depart from Seaboard and adopt the United rate design on Natural's system is supported by the recent opinion of the U.S. Court of Appeals for the D.C. Circuit. In discussing the Commission's departure from the Seaboard method in *Consolidated Gas Supply Corporation v. Federal Power Commission*,[20] the Court stated:
>
> "In setting rates the Commission is 'free', within the ambit of (its) statutory authority to make the pragmatic adjustments which may be called for by particular circumstances.
>
> "The percentage distribution of fixed costs within the framework of a two-part allocation and rate structure has never been considered inviolate. In Atlantic Seaboard, the Commission, recalling the words of the Court in Colorado Interstate, stressed that it was making a 'judgement determination' in deciding to divide the fixed costs equally between demand and commodity. The Seventh Circuit, rebuffing a challenge to a 'substantial deviation' from the 50 percent-50 percent formula, noted that 'the Commission's orders have deviated markedly from Seaboard since that case was decided' and found 'that the Commission is to be extended this discretion and * * * we are not to substitute our judgment except in cases of clear abuse.
>
> "We cannot say that the result reached by the Commission in allocating one quarter of fixed costs to demand and three quarters to commodity is unreasonable. The Commission realistically acknowledged the conclusion in Seaboard that the assignment of costs 'could not be done by mathematical computation but involves judgment.' The courts 'cannot fairly demand the perfect at the expense of the achievable.'
>
> "The development of extreme gas shortages and the resulting existence of large unused pipeline capacity provides a reasonable basis for reducing the demand component of the tariff charge and moving away from a marked peak differential."
>
> (Footnotes omitted.)

Under these circumstances, it is necessary to reduce to some extent the rate differential (i.e. the average unit cost of purchased gas) between high load factor and low load factor customers of Texas Gas and move in the direction of rates which minimize the price discounts offered to high load factor, high volume users. These discount rates are no longer appropriate in times of natural gas shortage.

[16] See United, supra.

[17] Compare United, supra.

[18] Tr. 232.

[19] See pages 12–13 of this opinion.

[20] 520 F.2d 1176, 1185–1186 (D.C. Cir. 1975).

Consolidated and Columbia attack this "elimination of price discount" argument, which was raised by Staff in this case, saying that the Commission's end-use curtailment plan for Texas Gas effectively prohibits additional sales by Texas Gas' customers in any event so that there is no need to partially remove the promotional or discount feature of the Seaboard rate design which Columbia and Consolidated propose. This argument is not persuasive. The discount-type promotional rates which result from Seaboard rates were prescribed (and even tiled) so as to encourage high load factor utilization of the pipeline supplier's system. Clearly, not the supply of natural gas but capacity of the pipeline was the limiting factor.[20] At the present time on the Texas Gas system, it is no longer necessary or in the public interest to continue, without modification, Seaboard rate, with the level of discount it offers to high load factor, high volume users.[21]

But Columbia and Consolidated argue further that it is only fair and equitable that they, as high load factor purchasers, retain the benefits of lower average unit costs of purchased gas, to offset the costs to their customers of storage facilities which they installed to increase their load factors as the result of Commission encouragement in the 1950's and 1960's. They also argue that their storage has benefited and continues to benefit Texas Gas' other customers because it obviated the need for Texas Gas to install more peaking facilities in the past which would have burdened all of Texas Gas' customers with more fixed costs associated therewith. The arguments raised by Columbia and Consolidated regarding the storage issue are similar to the arguments they raised in supporting the use of Seaboard and opposing the use of United for cost classification and cost allocation. Accordingly, we incorporate our responsive arguments from the cost classification and cost allocation section of this opinion to refute the arguments raised by Columbia and Consolidated. It is appropriate, however, to reiterate our basic finding that the storage arguments are not sufficient to prevent this Commission from adopting a rate design which more nearly reflects the operation of the Texas Gas system. In any event, use of the United rate design still offers a price discount in the form of lower average unit costs of purchased gas to high load factor customers with storage, such as Columbia and Consolidated, albeit to a lesser extent than with Seaboard.

Columbia and Consolidated also argue that it is improper to overemphasize the annual use of the system because it "* * * was constructed to meet each customer's maximum contract quantity." This is only partially correct. As the Commission noted in the original Seaboard case[22]:

> Pipelines are built to supply service not only on the few peak days but on all days thorughout the year. In proving the economic feasibility of the project in certificate proceedings, reliance is placed upon the annual as well as the peak deliveries. Stated another way, the capital outlay for the pipeline facility is made—and justified—not only for service on the peak days but for service throughout the year. * * * If fixed expenses are assigned wholly to the demand or capacity function, then gas service which is interrupted on peak days will not share in any of the fixed costs.

In any event, the Commission in this opinion has not over-emphasized the annual use of the system but rather has made a proper determination based on the current operations of the Texas Gas system under curtailment conditions.

Columbia and Consolidated also argue that "it is relatively less costly to serve high load factor customers" than low load factor customers.[23] However, upon cross-examination he indicated that no specific cost studies were prepared to show the costs of serving Columbia, Consolidated or any other high load factor customer or, for that matter, any of Texas Gas' low load factor customers such as Memphis. Specifically, he stated:

> I think the only costs studies we made were to accept the Seaboard allocation costs * * *. (Tr. 218.)

Absent specific cost studies, it is clear that the determination of cost distribution techniques—

> "* * * is not a matter for the slide rule," but "(a) judgement on a myriad of facts," * * * (and Courts have held) * * * that "the appropriateness of the formula employed by the Commission in a given case raises questions of fact not of law."
>
> When Congress * * * fails to provide a formula for the Commission to follow courts are not warranted in rejecting the one which the Commission employs unless it plainly contravenes the statutory scheme of regulation.[24]

The facts and record in this proceeding support the United rate design method.

Columbia and Consolidated also argue that the instant case is distinguishable from the United case because United had no demand charge adjustment provision whereas Texas Gas does. This is significant, it is argued, because demand charge adjustment provision reduces the demand charge of customers experiencing curtailment and recovers the deficit in demand charge collections through temporary surcharges to the commodity component of all customers' rates. As indicated previously, the Commission has found that the record evidence in this proceeding supports a United rate design. It is true that the operation of the demand charge adjustment provision will shift further fixed costs among customers through its operation. However, this further shifting of costs is consistent with the Commission's goals of shifting costs to reflect curtailments on Texas Gas' system and is not a reason retaining Seaboard.

Although the Commission finds that the United rate design is otherwise supportable for use on the Texas Gas system, the Commission finds that a beneficial aspect of this method will be to narrow the gap between the price of natural gas and the price of competitive fuels through an increase in the commodity component of Texas Gas' rates. By increasing the commodity rates, the incentive of distributors to make industrial sales is somewhat affected, albeit not to a sufficient extent to cause industrials to leave the system. However, the Commission continues to support this "narrowing of the gap" so as to move in the direction of eliminating the relatively low rates industrial users have enjoyed in the past and continue to enjoy vis-a-vis residential and small commercial users.[25] As the U.S. Court of Appeals indicated in Consolidated, supra at 1186[26]:

> Due to the increasing costs of coal and oil and the growing scarcity of natural gas, it is no longer necessary to lure industrial customers with relatively low commodity charges.

We note that Article IV of the Stipulation and Agreement in the proceeding approved by order issued October 6, 1975, provides that Texas Gas shall be required to reflect the United cost classification, cost allocation, and rate design method as set forth in this opinion only after a final and non-appealable order in this proceeding. The practical effect of this provision is to delay implementation of this opinion for a year or more if a party appeals this decision to a U.S. Court of Appeals. Accordingly, we shall expect Texas Gas in any new general rate increase filing under Section 4 of the Natural Gas Act to reflect fully the United methodology. To the extent that Texas Gas does not reflect the United method in any new filing, it is hereby placed on notice that it shall be subject to such undercollections as may occur if, after decision in that case, we find that the method used by Texas Gas therein is different from the one ultimately found to be just and reasonable by the Commission in that case. However, such undercollection shall not exceed those

[20] See United Fuel, supra; see also Fuels Research Council, Inc. v. F.P.C., 374 F.2d 842 (7th Cir. 1967).

[21] In a related argument, Columbia and Consolidated make the argument that high load factor customers are not necessarily high volume purchasers of natural gas because the term "high load factor" refers to customers who purchase more gas on an annual basis per unit of gas used on the peak day than do low load factor customers. While this is technically correct, it is unclear what relevance this point has in this proceeding since Columbia and Consolidated, as well as Texas Eastern, are all high load factor customers who are also large volume purchasers of gas from Texas Gas.

[22] 11 F.P.C. at 54–55.

[23] Testimony of Columbia and Consolidated Witness Davidson, Tr. 177.

[24] Consolidated Gas Supply Corporation, et al., v. F.P.C., 520 F.2d at 1185 citing to Colorado Interstate Gas Co. v. F.P.C., 324 U.S. 581 (1945); see also Consolidated, supra at 1187.

[25] See United, supra; Trunkline Gas Company, ____ FPC ____, issued July 9, 1975, in Docket No. RP74–89; Transwestern Pipeline Company, ____ FPC ____, issued March 2, 1976, in Docket No. RP74–52; Natural, supra.

[26] See also Fuels Research, supra, for a discussion of the relationship of commodity rate levels charged by pipelines to distributors and retail industrial rate levels.

that would be computed if 75 percent of fixed costs were classified to commodity under the United method as presented in the instant opinion.

CONCLUSION

In accordance with this opinion, and Texas Gas' Stipulation and Agreement in this docket which was approved by Commission order issued October 6, 1975, herein, Texas Gas shall file revised tariff sheets, with rates reflecting the United cost classification, cost allocation and rate design methods, within 10 days of the date the instant order becomes final and non-appealable, as more fully provided in Article IV of the Stipulation and Agreement.

The Commission finds: (1) Texas Gas Transmission Corporation is a natural gas company subject to the provisions of the Natural Gas Act and its sales for resale are subject to the jurisdiction of this Commission

(2) To the extent inconsistent with this opinion, the Initial Decision should be adopted in part and reversed in part, all as set forth more fully in the body of this opinion.

(3) Good cause exists to grant Staff's request to file its Brief Opposing Exceptions out of time.

The Commission orders: (A) The Initial Decision herein is reversed in part to provide for the adoption of the United method of cost classification, cost allocation and rate design in lieu of the unmodified Seaboard method, as set forth in more detail in the body of this order.

(B) Except as provided in (A) above, the Initial Decision is affirmed.

(C) As provided by this opinion and Article IV of Texas Gas' Stipulation and Agreement in this docket, Texas Gas shall file revised tariff sheets consistent with the findings of this opinion within 10 days of the date this opinion becomes final and non-appealable.

(D) Staff's request to file its Brief Opposing Exceptions out of time is hereby granted.

(E) The Secretary shall cause prompt publication of this opinion in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-11108 Filed 4-14-77;8:45 am]

[Doc. No. RP77-49]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Tariff Filing

APRIL 11, 1977.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on March 30, 1977, tendered for filing Second Revised Sheet No. 12 to its FPC Gas Tariff, Second Revised Volume No. 1.

Transco states that this tariff sheet is being filed for the purpose of reflecting a decrease in rates for Transco's Rate Schedule GSS (General Storage Service) to track the rate decrease to Transco from Consolidated Gas Supply Corporation (Consolidated) under the latter's GSS rate schedule. On October 29, 1976, Consolidated filed a general rate case in Docket No. RP77-7, which among other things, provided for a net decrease in Consolidated's Rate Schedule GSS charges to Transco by an amount of approximately $467,000 annually. By its order issued November 24, 1976, the Commission suspended Consolidated's filing until May 1, 1977. The instant filing by Transco is intended to "track" Consolidated's rate decrease on May 1, 1977 if Consolidated moves to make effective its rate filing in Docket No. RP77-7 on that date.

The GSS rates reflected in the enclosed tariff sheet reduce the rates made effective subject to refund on February 1, 1977, in Transco's Docket No. RP76-136. Therefore, the reduced GSS rates, if made effective May 1, 1977, will also be subject to refund in said Docket No. RP76-136.

The Company states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 22, 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.

[FR Doc.77-11093 Filed 4-14-77;8:45 am]

[Doc. No. E77-88]

TRANSWESTERN PIPELINE CO., ET AL.

Emergency Natural Gas Act of 1977; Emergency Order

On April 5, 1977, North Central Oil Corporation (NCOC), Transwestern Pipeline Company (Transwestern) and Colorado Interstate Gas Company (CIG) filed, pursuant to Section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), an application for authorization to permit Transwestern to commence an emergency purchase under Section 6 from NCOC through July 31, 1977. Subsequent to the emergency purchase, CIG will purchase the remaining reserves from NCOC at the applicable area or national rate prescribed by the Federal Power Commission (FPC), and NCOC and CIG will compromise and settle pending litigation regarding certain gas reserves.

On April 6, 1977, Cities Service Gas Company (Cities Service) filed a petition to intervene and requested whether Cities Service is eligible to purchase emergency gas from Transwestern under Order No. 6 (February 22, 1977). Cities Service also states that it must be allowed to roll in the cost of emergency gas through the purchased gas adjustment provisions in its tariff.

Cities Service's petition in this proceeding is similar to its petition in Docket No. E77-79. There, I stated that Order No. 6 was directed to the initial purchaser of gas sold under Section 6 and the purchaser's authorization to purchase such gas "encompasses the right to sell such gas to its customers." Transwestern Pipeline Company, Docket No. E77-79 (April 5, 1977). The same rationale applies in this proceeding.

Cities Service's petition also raises the question of how it may recover the costs associated with gas purchased under Section 6. On April 7, 1977, I issued a notice of proposed order prescribing rules for allocating gas volumes purchased under Section 6 and the costs associated with those purchases pursuant to Section 7 of the Act (91 Stat. 4, 8), Docket No. E77-92 (April 7, 1977). Cities Service's recovery of the costs associated with emergency gas purchased under Section 6 will be governed by the final order in that proceeding and any rules or regulations issued by the FPC to implement Section 6(b)(2) of the Act (91 Stat. at 8).

On or about March 14, 1977, NCOC and CIG executed formal documents providing for the sale and dedication of NCOC's interest in the Madden Field, Fremont County, Wyoming, to GIG. This sale and dedication was subject to NCOC's right to make an emergency sale under the Act. In addition, NCOC and CIG agreed to compromise and settle pending litigation regarding gas reserves in the Madden Field area. On March 15, 1977, NCOC and Transwestern executed an agreement for the purchase of available gas supplies from NCOC's interest in the Madden Field (approximately 7,500 Mcfd).[1] Contemporaneously with the execution of the contract with NCOC, and at all times prior to such execution, Transwestern states that it reasonably believed that it was qualified to make such purchase under Order No. 6 (February 22, 1977).

This case is similar to *Inexco Oil Company, et al.*, Docket No. E77-79 (March 28, 1977). Here, as there, Transwestern reasonably believed that it was eligible to purchase gas under Order No. 6, the seller detrimentally relied on Transwestern's belief, and the seller and CIG have agreed that the seller's interests in disputed acreage will be dedicated to CIG subsequent to the emergency sale and that pending litigation between the seller and CIG will be compromised and settled. In this case, however, deliveries to Transwestern had not commenced prior to Transwestern's receipt of in-

[1] The application states that the wells supplying 4,000 Mcfd are now connected to CIG's pipeline. An additional three wells supplying an additional 3,500 Mcfd are to be connected. The April 4, 1977 cover letter indicates that at least one of three additional wells has been connected to CIG's pipeline.

formation that it was not eligible to purchase gas under Order No. 6. That distinction is not controlling. *Colorado Interstate Gas Company*, Docket No. E77-31 (February 28, 1977), indicated that detrimental reliance on Order No. 2 (February 3, 1977) coupled with a long-term dedication of the remaining reserves to the interstate market at the applicable area or national rate prescribed by the FPC could justify approval of the proposed sale even though the purchaser was not eligible to make the purchase under Order No. 6. I find that Transwestern has satisfied the *Colorado Interstate* criteria. Therefore, Transwestern is authorized to purchase this gas from NCOC notwithstanding Order No. 6.

Transwestern will purchase these supplies at a price of $2.25 per MMBtu inclusive of all state and local taxes and other adjustments. This price is fair and equitable in accordance with Order No. 2.

This gas will be delivered to Transwestern through the existing pipeline facilities of CIG, Northwest Pipeline Corporation (Northwest) and El Paso Natural Gas Company (El Paso). Transwestern shall submit all relevant information regarding transportation charges to the Administrator.

Pursuant to Section 6(a) of the Act, I hereby authorize Transwestern to purchase gas from NCOC. This authorization is conditioned upon CIG and NCOC submitting to the FPC, within seventy-two (72) hours of this order, a binding contract for the sale of this gas by NCOC to CIG subsequent to July 31, 1977, at a price not to exceed the applicable area or national rate prescribed by the FPC. Pursuant to Section 6(c)(1), I authorize CIG, Northwest, and El Paso to transport this gas for Transwestern.

Transwestern shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Transwestern, NCOC, CIG, Northwest, and El Paso. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

APRIL 12, 1977.

[FR Doc.77-11091 Filed 4-14-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of FDA. This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations, 21 CFR Part 14, (formerly Subpart D of Part 2, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)), relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
2. Science Advisory Board....	May 2, 3, and 4, 9 a.m., National Center for Toxicological Research, Jefferson, Ark. on May 2 and 3, Camelot Inn, Little Rock, Ark. on May 4.	Open public hearing May 2, 9 a.m. to 10 a.m.; open committee discussion May 2, 10 a.m. to 4:30 p.m., May 3 and 4, 9 a.m. to 4:30 p.m.; Ruth S. Magee, National Center for Toxicological Research, Jefferson, Ark. 72079, 501-541-4528.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearings. Interested parties are encouraged to present information pertinent to the tentative classification findings to the executive secretary. Those desiring to make formal presentations should notify the executive secretary by April 25, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel members will review their classification recommendations and justifications for all implants and life-supporting type devices for which they recommend other than a class III classification. The panel members will also discuss a plan for preparing their classification report and the contents of that report.

Committee name	Date, time, and place	Type of meeting and contact person
1. Cardiovascular Device Classification Panel.	May 2, 9 a.m., room 1409, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; Glenn A. Rahmoeller (HFK-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7226.

General function of the committee. Advises on establishment and implementation of research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the board.

Open committee discussion. Discussion of NCTR status report; future plans; pathology—past and present; cell biology; tissue culture; mutagenesis; matrix approach; teratology; bladder cancer; aromatic amines; graduate education; hepatoma; hormones; and recomemndations.

Committee name	Date, time, and place	Type of meeting and contact person
3. Hepatotoxicity Subcommittee of the Gastrointestinal Drugs Advisory Committee.	May 3, 9 a.m., conference room I, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

General function of the committee. Reviews and evaluates available data concerning safety and effectiveness of marketed investigational prescription drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Evaluation of potential hepatotoxicity in clinical investigation Phase I and II.

Committee name	Date, time, and place	Type of meeting and contact person
4. Cardiovascular and Renal Advisory Committee.	May 4 and 5, 9 a.m., conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing May 4, 9 a.m. to 10 a.m.; open committee discussion May 4, 10 a.m. to 5 p.m., May 5, 9 a.m. to 12 p.m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

General function of the committee. reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of new drug application (NDA) 17-819 (Atropen); NDA 16-194 (Talwin injection labeling claims); and FDA action report.

Committee name	Date, time, and place	Type of meeting and contact person
5. Technical Electronic Product Radiation Safety Standards Committee.	May 5 and 6, 9 a.m., room 416, 12720 Twinbrook Parkway, Rockville, Md.	Open public hearing May 5, 9 a.m. to 10 a.m.; open committee discussion May 5, 10 a.m. to 5 p.m., May 6, 8:30 a.m. to adjournment; Marshall S. Little (HFX-440), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3429.

General function of the committee. Advises on technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation pursuant to 42 U.S.C. 263f(f)(1)(A).

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of proposed amendments to laser product standard; proposed amendments to diagnostic X-ray equipment standard; report on criteria for mercury vapor lamps; report on microwave diathermy equipment standard; report on bioeffects of microwaves; and report on the Medical Device Amendments of 1976 (Pub. L. 94-295).

Committee name	Date, time, and place	Type of meeting and contact person
6. Hepatotoxicity Subcommittee of the Gastrointestinal Drugs Advisory Committee.	May 9 and 10, 9 a.m., conference rooms H, I, and J, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing May 9, 9 a.m. to 10 a.m.; open committee discussion May 9, 10 a.m. to 5 p.m.; May 10, 9 a.m. to 3 p.m.; Joan C. Standaert (HFD-110), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4730.

General function of the committee. Reviews and evaluates available data concerning safety and effectiveness of marketed investigational prescription drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of pre-clinical guidelines (Conference Rm. H); guidelines for clinical testing Phases III and IV (Conference Rm. I); and guidelines for evaluation of drug interaction and pharmacogenetics (Conference Rm. J).

Committee name	Date, time, and place	Type of meeting and contact person
7. FDA/NIDA Drug Abuse Research Advisory Committee.	May 12, 8:30 a.m., conference room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 8:30 a.m. to 9:30 a.m.; open committee discussion 9:30 a.m. to 5 p.m.; John A. Scigliano, Ph. D. (HFD-123), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3504.

General function of the committee. Advises the Food and Drug Administration on action to be taken with respect to investigational use of substances with abuse potential. Advises the National Institutes on Drug Abuse on supplies of substances for clinical studies and on quantities of substances for animal and in vitro studies. Advises FDA and NIDA on development of board outlines for studies of substances with abuse potential and on new methods and tests in animals and man by which the dependence liability on investigational drugs may be estimated.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of minutes and action report; progress reports on the effects on nausea and vomiting in cancer chemotherapy, effects on intraocular pressure and glaucoma, preclinical data on teratology; reviews of investigational new drugs (IND's), amendments and progress reports (clinical), and schedule I substances shipments (preclinical); discussion of conflict of interest and the special government employee; open agency regulations; developing an FDA policy re decriminalization of cannabis; and congressional inquiry re supplies of Schedule I substances.

Committee name	Date, time, and place	Type of meeting and contact person
8. Toxicology Advisory Committee.	May 12 and 13, 9 a.m., conference rooms G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open committee discussion May 12, 9 a.m. to 12 m.; open public hearing May 12, 1 p.m. to 2 p.m.; open committee discussion May 12, 2 p.m. to 4:30 p.m., May 13, 9 a.m. to 12 m.; open public hearing May 13, 1 p.m. to 2 p.m.; open committee discussion May 13, 2 p.m. to 3 p.m.; Jeffrey A. Staffa, Ph. D. (HFS-50), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data relating to the evaluation of the safety of chemicals present in foods, drugs, cosmetics, and medical devices. Advises on the safety of specific human drugs, animal drugs, color and food additives, cosmetic components, and components of devices. Recommends the development of standardized methodologies for the toxicity testing of such materials.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the increased prolactin levels in animals on psychotropic drugs and toxicology guidelines.

Committee name	Date, time, and place	Type of meeting and contact person
9. Miscellaneous Internal Drug Products Panel.	May 15 and 16, 9 a.m., conference room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open committee discussion May 15, 9 a.m. to 4:30 p.m.; open public hearing May 16, 9 a.m. to 10 a.m.; open committee discussion May 16, 10 a.m. to 4:30 p.m., Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
10. Arthritis Advisory Committee.	May 19 and 20, 9 a.m., conference room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing May 19, 9 a.m. to 10 a.m.; open committee discussion May 19, 10 a.m. to 4:30 p.m., May 20, 9 a.m. to 3 p.m.; C. H. Maxwell, M.D. (HFD-150), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5197.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in arthritic conditions.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of NDA 17-911 (Clinoril); proposed changes in indomethacin labeling; guidelines for evaluation of remission inducing drugs; and basis of approval for nonsteroidal anti-inflammatory drugs.

Committee name	Date, time, and place	Type of meeting and contact person
11. Dental Drug Products Advisory Committee.	May 23, 9 a.m., conference room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4 p.m.; Clarence C. Gilkes, D.D.S. (HFD-160), 5600 Fishers Lane, Rockville Md. 20857, 301-443-3560.

General function of the committee. Reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in the practice of dentistry.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of Xylitol in chewing gum studies.

Committee name	Date, time, and place	Type of meeting and contact person
12. Antimicrobial Panel	May 20 and 21, 9 a.m., conference room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing May 20, 9 a.m. to 10 a.m.; open committee discussion May 20, 10 a.m. to 4:30 p.m.; May 21, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
13. Contraceptive and Other Vaginal Drug Products Panel.	May 20 and 21, 9 a.m., conference room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing May 20, 9 a.m. to 10 a.m.; open committee discussion May 20, 10 a.m. to 4:30 p.m., May 21, 9 a.m. to 4:30 p.m.; Armond M. Welch (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
14. Dentifrices and Dental Care Agents Panel.	May 25 and 26, 9 a.m., conference room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing May 25, 9 a.m. to 10 a.m.; open committee discussion May 25, 10 a.m. to 4:30 p.m., May 26, 9 a.m. to 4:30 p.m.; Michael D. Kennedy (HFD-510), 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)).

The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

The panel will be reviewing, voting upon, and modifying its draft report in preparation for submission to the Commissioner.

Committee name	Date, time, and place	Type of meeting and contact person
15. Ear, Nose, and Throat Device Classification Panel.	May 25 and 26, 9 a.m., room 1406, FB-8, 200 C St. SW., Washington, D.C.	Open public hearing May 25, 9 a.m. to 10 a.m.; open committee discussion May 25, 10 a.m. to 4:30 p.m., May 26, 9 a.m. to 4:30 p.m.; Harry R. Sauberman (HFB-5), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7226.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to ENT devices to be classified at this meeting to the executive secretary. Submission of data relative to previous classification recommendations is also invited. Those desiring to make formal presentations should notify the executive secretary by May 10, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The panel will complete and review supplementary classification data sheets for the following ENT devices; Laryngeal implants: laryngeal prothesis (Taub). Prosthetic implant material: composite synthetic polymers (e.g. proplast TM). Ear Instruments: ear drape; electric ear drill; ear drill handpiece; aural magnifier; AC powered otoscope; battery powered otoscope. Multiple use surgical instruments: burr; pneumatic drill; fiberilluminator; surgical microscope; pneumatic saw; laser. Nasal and paranasal sinus instruments: AC powered antroscope; nasograph. Pharyngeal instruments; nasopharyngoscope; laryngeal telescope. Tracheal, bronchial and esophageal instruments: AC powered bronchoscope; battery powered bronchoscope; AC powered esophagoscope; battery powered seophagoscope; AC powered mediastinascope; battery powered mediastinascope; esophageal probang.

Committee name	Date, time, and place	Type of meeting and contact person
16. Bladder Cancer Subcommittee of the Science Advisory Board to the National Center for Toxicological Research.	May 27, 9 a.m., Doll Room, Holiday Inn, North Little Rock, Ark.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 3 p.m.; Ruth S. Magee, National Center for Toxicological Research, Jefferson, Ark. 72079, 501-541-4528.

General function of the committee. Advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs and the Administrator, Environmental Protection Agency, in fulfilling their regulatory responsibilities.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Status report on bladder lesions seen in urinary tract of mice fed 4-ethyl-sulfonylnaphthalene 7-sulfonamide (ENS) and other chemical agents; presentation of protocols in chronic studies; progress reports of the following projects: metabolism and biological effects of ENS; cofactors in the etiology of bladder cancer in mice; exfoliative cytology as a tool for early detection of bladder cancer in mice; tissue culture systems in cell-virus interactions in the evaluation of toxic environmental chemicals.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14 published in the FEDERAL REGISTER of November 26, 1976 (41 FR 52148) under Subpart D of former Part 2 and recodified in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553).

The Commissioner approves the scheduling of meetings at locations outside of the Washington, DC, area on the basis of the criteria of § 14.22 (21 CFR 14.22, formerly § 2.307, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553))

of FDA's regulations relating to public advisory committees.

Dated: April 8, 1977.

JOSEPH P. HILO,
Associate Commissioner for Compliance.

[FR Doc.77-10893 Filed 4-14-77;8:45 am]

[Doc. No. 76P-0061]

CONTINENTAL X-RAY CORP.

Extension of Variance

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces the extension of Variance No. 75001, originally granted to Continental X-Ray Corp., 641 West Lake St., Chicago, IL 60606, in the FEDERAL REGISTER of March 19, 1975 (40 FR 12534). This action is being taken so that sufficient time will be allowed for publication of the agency's final ruling on amendments to § 1020.31 (21 CFR 1020.31), originally proposed in the FEDERAL REGISTER of February 23, 1976 (41 FR 7957), which would incorporate the major features of Variance No. 75001 into the regulations.

DATES: The expiration date of Variance No. 75001 is extended from March 19, 1977, until September 30, 1977, unless written objections and supporting information are filed on or before May 16, 1977, requesting that the extension not be granted.

ADDRESSES: Objections to this action to extend the expiration date of the variance should be sent to: Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Harvey Rudolph, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426).

SUPPLEMENTARY INFORMATION: On March 19, 1975, a variance from specific provisions of the diagnostic x-ray equipment performance standards (21 CFR 1020.30 through 1020.32) was granted to Continental X-Ray Corp. under § 1010.4 (21 CFR 1010.4), which concerns granting of variances for electronic products for which there are performance standards promulgated under section 358 of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f). This variance applies to the Compere Temporal Bone Radiographic Unit, a diagnostic x-ray system marketed by that company. Under the variance, these x-ray systems have been allowed to deviate from § 1020.31(f)(2) in that means are not provided to align the center of the x-ray field with the center of the image receptor to within 2 percent of the source-image receptor distance; however, the x-ray field is confined to be within the area of the image receptor. These provisions have been incorporated into the February 23, 1976 proposal to amend § 1020.31.

The expiration date of Variance No. 75001 is now March 19, 1977 (extension granted in the FEDERAL REGISTER of March 17, 1976 (41 FR 11197)). Due to delays resulting from the consideration of public comments on the proposal to amend § 1020.31, Variance No. 75001 expired before the effective date of the anticipated final rule. Because of this, the Director of the Bureau of Radiological Health is granting an extension of this variance until September 30, 1977. The extension shall become effective on March 19, 1977, unless written objections and supporting information are filed with the Hearing Clerk, Food and Drug Administration, on or before May 16, 1977, requesting that the variance be modified or not granted. Upon receipt of such objections and supporting documentation, the effective date of the variance will be stayed until the Director, Bureau of Radiological Health, rules on them. Pursuant to § 1010.4(c)(3), the applicant shall then be notified by certified mail and a notice of the stay shall be published in the FEDERAL REGISTER. The ruling on the objections shall be made within 60 days, shall be published in the FEDERAL REGISTER, and shall constitute final agency action subject to judicial review under section 358(d) of the act.

The application for this variance and all related correspondence, except information covered by the confidentiality provisions of section 360A(e) of the act (42 U.S.C. 263i(e)), have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen Monday through Friday from 9 a.m. to 4 p.m. except on Federal legal holidays.

Dated: April 8, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-10897 Filed 4-14-77;8:45 am]

[Doc. No. 76P-0047]

DIAGNOSTIC X-RAY SYSTEMS AND THEIR MAJOR COMPONENTS

Extension of Variance to CGR Medical Corp.

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces the extension of Variance No. 74001, originally granted to CGR Medical Corp., 2519 Wilkens Ave., Baltimore, MD 21203, in the FEDERAL REGISTER of May 22, 1974 (39 FR 17988). This action is being taken so that sufficient time will be allowed for publication of the agency's final ruling on amendments to § 1020.31 (21 CFR 1020.31), originally proposed in the FEDERAL REGISTER of February 23, 1976 (41 FR 7957), which would incorporate the major features of Variance No. 74001 into the regulations.

DATES: The expiration date of Variance No. 74001 is extended from April 4, 1977, until September 30, 1977, unless written objections and supporting information are filed on or before May 16, 1977, requesting that the extension not be granted.

ADDRESSES: Objections to this action to extend the expiration date of the variance should be sent to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Harvey Rudolph, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301-443-3426).

SUPPLEMENTARY INFORMATION: On May 22, 1974, a variance from specific provisions of the diagnostic x-ray equipment preformance standard (21 CFR 1020.30-32) was granted to CGR Medical Corp. under § 1010.4 (21 CFR 1010.4), which concerns granting of variance for electronic products for which there are performance standards promulgated under section 358 of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f). This variance applies to removable, fixed-aperture, beam-limiting devices for use with the Senographe mammography unit, a diagnostic x-ray system marketed by that company. Under the variance, these products have been allowed to deviate from the requirements of § 1020.31(f)(3) in that means are not provided to align the center of the image receptor to within 2 percent of the source-image receptor distance, and the devices have appropriate labeling changes to ensure alternate radiation protection. These provisions have been incorporated into the February 23, 1976 proposal to amend § 1020.31.

The expiration data of Variance No. 74001 is now April 4, 1977 (extension granted in the FEDERAL REGISTER of March 3, 1976 (41 FR 9236). Due to delays resulting from the consideration of public comments on the proposal to amend § 1020.31, Variance No. 74001 expired before the effective date of the anticipated final rule. Because of this, the Director of the Bureau of Radiological Health is granting an extension of this variance until September 30, 1977. The extension shall become effective on April 4, 1977, unless written objections and supporting information are filed with the Hearing Clerk, Food and Drug Administration, on or before May 16, 1977, requesting that the variance be modified or not granted. Upon receipt of such objections and supporting documentation, the effective date of the variance will be stayed until the Director, Bureau of Radiological Health, rules on them. Pursuant to § 1010.4(c)(3), the applicant shall then be notified by certified mail and a notice of the stay shall be published in the FEDERAL REGISTER.

The ruling on the objections shall be made within 60 days, shall be published in the FEDERAL REGISTER, and shall constitute final agency action subject to judicial review under section 358(d) of the act.

The application for this variance and all related correspondence, except information covered by the confidentiality provisions of section 360A(e) of the act (42 U.S.C. 263i(e)), have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen Monday through Friday from 9 a.m. to 4 p.m. except on Federal legal holidays.

Dated: April 8, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-10898 Filed 4-14-77;8:45 am]

NORWICH PHARMACAL CO.

Nitrofurazone-Penicillin Gel; Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration is withdrawing approval of a new animal drug application (NADA) for Furacin-Penicillin Gel.

EFFECTIVE DATE: April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301) 433–3420.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.29), the following notice is issued:

Norwich Pharmacal Co., Division of Morton-Norwich Products, Inc., 13–12 Eaton Ave., Norwich, N.Y. 13815, holder of approved NADA No. 65–148V for Furacin-Penicillin Gel has requested, by letter dated July 8, 1976, that approval of the NADA be withdrawn and has waived its opportunity for a hearing. The NADA, which was originally approved October 16, 1962, currently provides for the use of the drug as a topical antibacterial for the treatment or prevention of topical bacterial infections caused by organisms sensitive to nitrofurazone or penicillin. The firm has requested that the NADA be withdrawn because the drug is no longer being marketed.

Therefore, in accordance with § 54.115 (21 CFR 514.115), notice is given that approval of NADA 65–148V and all supplements thereto for Furacin-Penicillin Gel is hereby withdrawn, effective April 15, 1977.

Published elsewhere in this issue of the FEDERAL REGISTER is an amendment to § 540.380a *Penicillin ointment* (21 CFR 540.380a) to reflect this notice.

Dated March 28, 1977.

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

[FR Doc.77-10894 Filed 4-14-77;8:45 am]

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations, 21 CFR Part 14, (formerly Subpart D of Part 2, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 CFR 15553)), relating to advisory committees.

SUPPLEMENTARY INFORMATION: The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Allergenic Extracts Panel.	May 20 and 21, 9 a.m., room 130, 8110 Executive Blvd., Rockville, Md.	Open public hearing May 20, 9 a.m. to 10 a.m.; open committee discussion May 20, 10 a.m. to 5:30 p.m., May 21, 8:30 a.m. to 10 a.m.; closed committee deliberations May 21, 10 a.m. to adjournment; Clay Sisk (HFB–5), 8800 Rockville Pike, Bethesda, Md. 20014, 301–443–5455.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. Discussion of the recommendations for further clinical testing and revision of draft reviews on epidermal, insect, pollen, food and miscellaneous inhalent extracts.

Closed committee deliberations. Review of data submission from allergenic extract producers on the subject of manufacturing techniques for insect allergenic extracts and for food allergenic extracts. This portion of the meeting will be closed to permit discussion of trade secret information (5 U.S.C 552b(c)(4)).

Committee name	Date, time, and place	Type of meeting and contact person
2. Physical Medicine Device Classification Panel.	May 23 and 24, 9 a.m., room 6C21, FB–8, 200 C St. SW., Washington, D.C.	Open public hearing May 23, 9 a.m. to 10 a.m.; open committee discussion May 23, 10 a.m. to 2:30 p.m., closed committee deliberations May 23, 2:30 p.m. to 4 p.m.; open committee discussion May 24, 9 a.m. to 4 p.m.; Johnnie W. Bailey (HFK–440), 9757 Georgia Ave., Silver Spring, Md. 20910, 301–427–7234.

General function of the committee. Reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested parties are encouraged to present information pertinent to classification of devices included in this announcement or devices previously considered by the panel to the executive secretary. Submissions of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by May 16, 1977, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. Review classification recommendations of the October 18 and 19, 1976, Orthotic/Prosthetic Subcommittee meeting; review classification recommendations of the December 6, 1976, Electrodiagnostic Subcommittee meeting; review of classification recommendations of the March 18, 1977, Electrotherapeutic Subcommittee meeting; and review of recommendations for Class I Device Exemptions from registration, records, and reports and/or good manufacturing practices.

Closed committee deliberations. The panel will discuss a proposed regulatory action to be taken by FDA under authority granted under section 516 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360f). This portion of the meeting will be closed to protect information, the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action (5 U.S.C. 552b(c)(9)(B)).

Each public advisory meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral pres-

entation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14, (formerly Subpart D of Part 2, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personal records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: April 8, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77-11002 Filed 4-14-77;8:45 am]

Office of Education

NATIONAL ADVISORY COUNCIL FOR CAREER EDUCATION

Meeting

AGENCY: National Advisory Council for Career Education, HEW/OE.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the National Advisory Council for Career Education. It also describes the functions of the Council. Notice of the meeting is required by the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: May 5-6, 1977. May 5—7 p.m.-10 p.m. May 6—9 a.m.-4 p.m.

ADDRESS: Federal Office Building No. 6, Room 300, 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert D. Bhaerman, Office of Education, Office of Career Education, Room 3100, ROB No. 3, 7th and D Sts., SW., Washington, D.C. 20202. 202-245-2547.

SUPPLEMENTARY INFORMATION: The National Advisory Council for Career Education is established under Section 406 of the Education Amendments of 1974, Pub. L. 93-380, (88 Stat. 552, 553.) The Council is directed to:

Advise the Commissioner of Education on the implementation of Section 406 of the Education Amendments of 1974 and carry out such advisory functions as it deems appropriate, including reviewing the operation of this Section and all other programs of the Division of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining need for further legislative remedy in order that all citizens may benefit from the purposes of career education as described in section 406.

The Council with the assistance of the Commissioner conducted a survey and assessment of the current status of career education programs, projects, curricula and materials in the United States and submitted to Congress a report on such survey.

The meeting of the Council shall be open to the public. The meeting on May 5 will begin at 7 p.m. and end at 10 p.m. and on May 6 the meeting will begin at 9 a.m. and end at 4 p.m. The meeting will be held at the Office of Education, Federal Office Building No. 6 (FOD No. 6), located at 400 Maryland Avenue, SW., Room 3000, Washington, D.C. 20202.

The proposed agenda includes:

(1) Report of the Legislative Sub-Committee.
(2) Discussion of H.R. 7.
(3) Report on "Supportive Activities for Career Education".
(4) Report on Education and Work Initiative.
(5) Correspondence and Other Business Matters.
(6) Discussion of Commissioned Papers.

Records shall be kept of all Council proceedings and shall be available 14 days after the meeting for public inspection at the Office of Career Education located at 7th and D Sts., SW., Room 3100, ROB No. 3, Washington, D. C. 20202.

Signed at Washington, D.C. on April 12, 1977.

JOHN LINDIA,
Delegate, National Advisory Council for Career Education.

[FR Doc.77-10999 Filed 4-14-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Public Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10 (a)(a)). This document is intended to notify the general public of their opportunity to attend.

DATES: Meeting of the National Advisory Council on Vocational Education, May 4, 1977, 9 a.m. to 5 p.m.; Meeting of the National Council with the State Advisory Councils on Vocational Education, May 4, 1977, 4 p.m. to 7 p.m.; May 5, 1977, 8 a.m. to 5 p.m.; and May 6, 1977, 8:30 a.m. to 12 noon.

ADDRESS: Hyatt Regency Washington, 400 New Jersey Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ruth Tangman, NACVE Staff, 425 13th Street, NW., Suite 412, Washington, D.C. 20004 202-376-8873.

The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is directed to:

(1) Advise the Commissioner concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(2) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(3) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The meetings on May 4, 1977 will be open to the public from 9 a.m. to 5 p.m. and from 4 p.m. to 7 p.m.; on May 5, 1977 from 8 a.m. to 5 p.m., and on May 6, 1977, from 8:30 a.m. to 12 noon. These meetings will be held at the Hyatt Regency Washington, Washington, D.C.

The proposed meeting of the National Advisory Council on Vocational Education on May 4, 1977 includes:

Approval of January Minutes.
Welcome for New Members.
Chairperson/Executive Director's Reports.
Budget Review.
Report from the U.S. Office of Education.
Discussion with the National Institute of Education.
Discussion and Planning on Youth Unemployment.
Task Force Presentations.
Discussion and Planning for July Meeting.

The meeting with the National and State Advisory Council's on Vocational Education on May 4–6, 1977, will include the following agenda items:

May 4, 1977: Registration; Banquet presentation on the Relationship of CETA and Vocational Education.

May 5, 1977: Registration; Welcome and Introductions; Speaker on Youth Unemployment from the State Point of View; Presentation by Secretary of Labor Ray Marshall; Reaction Panel on Youth Unemployment. Workshops: Planning; Evaluation. Evaluating National Priority Problems: A Coordinated NACVE/SACVE Approach; Technical Assistance to Local Advisory Councils; Sex Sterotyping.

May 6, 1977: Speaker on the Administration's position toward vocational education; Wrap-up session; workshop reports; report from NACVE; discussion of location for next meeting.

Records shall be kept of all Council proceedings and shall be available 14 days after the meeting for public inspection at the Office of the National Advisory Council on Vocational Education located at 425 13th Street NW., Suite 412, Washington, D.C. 20004.

Signed at Washington, D.C. on April 11, 1977.

REGINALD E. PETTY,
Executive Director, National Advisory Council on Vocational Education.

[FR Doc.77-11018 Filed 4-14-77;8:45 am]

INDIAN EDUCATION

Acceptance of Nominations for Membership on the National Advisory Council on Indian Education

1. *Introduction.* In accordance with 20 U.S.C. 1221g, National Advisory Council on Indian Education—Establishment; Membership; Appointment; and Geographic Representation, announcement is hereby made that the Commissioner of Education will accept nominations for Indians and Alaska Natives, as defined below, in order to make recommendations of individuals to the President of the United States for membership on the National Advisory Council on Indian Education. The National Advisory Council on Indian Education consists of fifteen (15) members who are Indians and Alaska Natives appointed by the President. Such appointments shall be made by the President from lists of nominees furnished from time to time, by Indian tribes and organizations, and shall represent diverse geographic areas of the country.

(Pub. L. 92-318, Section 442, Title IV, Part D.)

Nominations submitted to the Commissioner of Education by Indian tribes and organizations must be received no later than May 23, 1977. Nominations are being requested to make recommendations for five (5) membership positions, which will be vacated in the fall of 1977. Each Presidential appointment will be for a term of three years.

2. *Nomination review procedure.* The Deputy Commissioner for Indian Education will gather members of the Management Team to screen nominations received and address appropriate criteria. Lists of primary and alternate recommended individuals will be compiled as a result of this session and will be forwarded to the Commissioner of Education for his review. These lists will be accompanied by a listing of all individuals nominated.

The Commissioner of Education will make his recommendations to the Secretary of Health, Education, and Welfare and forward primary and alternate lists of recommended nominees for the Secretary's review, which will be accompanied by a complete listing of all individuals nominated.

The Secretary of Health, Education, and Welfare will then forward his primary and alternate recommendations and a complete list of all nominations received to the President of the United States for necessary action.

3. *Definition.* "Indian" means any individual who (a) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (b) is considered by the Secretary of the Interior to be an Indian for any purpose, or (c) is an Eskimo or Aleut or other Alaska Native.

(Pub. L. 92-318, Section 453, Title IV, Part E.)

4. *Nominations.* Nominations submitted to the Commissioner of Education should be made according to the following categories:

(a) Professional educators,
(b) Laypersons involved in education,
(c) Students, and
(d) Individuals with other than education experience.

Nominations from categories (a), (c), and (d) above will be stressed for this year's recommendations by the Commissioner of Education, but nominations from all categories will be accepted. These categories are explained further below.

Nomination categories. (a) Individuals with active experience as education professionals, for example: teachers/professors, administrators, specialists (e.g., curriculum, language, math, etc.), counselors, researchers, or other education professionals.

(b) Individuals with active experience as laypersons involved with education, for example: school board members, Parent/Teacher Association members, parents of school-age children, or those with other lay involvement.

(c) An Indian student who is a college student or who has reached his or her junior year of high school at the time of nomination.

(d) Individuals who do not have education experience and preferably those individuals who have experience in a field involving Indian affairs.

5. *Recommendations.* Dependent upon the nominations received, it is anticipated that at least three of the nominees will be recommended from the category of professional educators, one nominee recommended from the category of students, and one nominee recommended from the category of individuals with other than education experience. Attempts will be made to recommend individuals representing diverse geographic areas of the country, particularly from those areas with large Indian populations. Questions pertaining to the representation of urban, rural, reservation, non-reservation, male, and female interests will be addressed by giving adequate consideration during the screening process by the Deputy Commissioner for Indian Education. The Deputy Commissioner for Indian Education will consider the following factors in recommending individuals for nomination: Indian education experience, general education experience, experience as an administrator, education background, previous council or committee experience, honors and awards received, and organizational memberships. Nominees will also be considered on the basis of their knowledge of and experience with both local community and national issues.

6. *Nomination procedure.* Nominations submitted to the Commissioner of Educa-

tion must be submitted on Office of Education form OE–543, which may be obtained by writing or calling the Office of Indian Education. The address and telephone number are as follows: Office of Indian Education, U.S. Office of Education, FOB–6, Room 2177, 400 Maryland Avenue SW., Washington, D.C. 20202, 202–245–8060.

A. Nominations sent by mail. A nomination sent by mail should be addressed as above. A nomination sent by mail will be considered to be received on time by the Office of Indian Education if:

(1) The nomination was sent by registered or certified mail not later than May 18, 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 nomination is received on or before the closing date by either the Department of Health, Education, and Welfare, or the Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner of Education will rely on the time/date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. Hand-delivered nominations. A nomination to be hand delivered must be taken to the Office of Indian Education, Room 2177, Federal Office Building Six, 400 Maryland Avenue SW., Washington, D.C. Hand-delivered nominations will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C. time, except Saturdays, Sundays, and Federal holidays. Nominations will not be accepted after 4 p.m. on the closing date.

7. *Incomplete forms.* Incomplete forms will be returned to the nominating Indian tribe or organization accompanied by a checklist detailing information necessary for completion. Corrected forms must be received by the Office of Indian Education no later than May 23, 1977 or not later than fifteen (15) days after the date on the checklist in order to be considered for recommendation by the Commissioner.

Dated: April 7, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.77–11114 Filed 4–14–77;8:45 am]

Office of the Secretary

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. 217a. by the Secretary of Health, Education, and Welfare, on February 21, 1975, will meet on Sunday, May 1, 1977, from 8:30 a.m. to 5:00 p.m., in Room 5559 of the Donohoe 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 and the investigation of allegations by certain employees of the Bureau of Drugs and Bureau of Veterinary Medicine, FDA. In accordance with the provisions of Section 10(d) of Public Law 92–463 and 5 U.S.C. 552(b)(6), the meeting will be closed to the public from 8:30 a.m. until 9:30 a.m. on May 1 for the discussion of the investigation of FDA, Bureau of Veterinary Medicine, internal personnel matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

All other portions of the meeting 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: Donohoe Building, Room 1187, 330 Independence Avenue SW., Washington, D.C. 20201.

JOHN D. RUST,
Executive Secretary,
Review Panel on New Drug Regulation.

APRIL 6, 1977.

[FR Doc.77–11255 Filed 4–14–77;10:48 am]

NATIONAL SCIENCE FOUNDATION

SCIENCE APPLICATIONS TASK FORCE

Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92–463, the National Science Foundation announces the following meeting:

Name: Science Applications Task Force.

Date and time: 2 May: 9 a.m.–5 p.m., 3 May: 9 a.m.–4 p.m.

Place: Room 410, Marvin Center, George Washington University, 800 21st Street, NW., Washington, D.C. 20006.

Type of meeting: Open.

Contact Person: Gilbert B. Devey, Executive Secretary, Science Applications Task Force, 1730 K Street, N.W., Washington, D.C., Telephone: 202–634–6608.

Persons interested in attending the meeting should inform the Executive Secretary before 5 PM on April 25, 1977.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of advisory group: The purpose of the NSF Task Force on Science Applications, is to provide advice and assessments and make recommendations to the NSF Director on science applications programs and related organization and management issues.

Agenda:

May 2, 1977: 9 a.m.—Announcements: Dr. John R. Whinnery, Task Force Chairman.

9:15 a.m.—NSF Science Applications Programs. Dr. Richard C. Atkinson, Acting Director, NSF.

9:45 a.m.—General Discussion of Division of Engineering Program Objectives and Project Management (project selection criteria; coordination mechanisms; long range planning; criteria for support of industrial researchers; program evaluation; program needs). Participants: Dr. E. E. Creutz, Assistant Director, MPE; Mr. Wayne R. Gruner, Assistant to the Assistant Director, MPE; Dr. Charles Polk, Acting Division Director, ENG, Engineering Staff members.

Noon–1:30 p.m.—Lunch.

1:30 p.m.—Reports by Task Force Members. NSF/Industry: Dr. J. Bliss, Telesensory Systems, Inc.; Dr. A. M. Bueche, General Electric Co.; Dr. S. J. Luksik, McLean, Virginia. NSF/Other Agencies: Dr. S. Lukasik, Applied Environmental Research: Dr. J. Neuhold, Dr. E. Murphy.

4:30—5 p.m.—General discussion.

MAY 3, 1977

9 a.m.—Viewpoints of the American Society of Civil Engineers: Dr. Leland J. Walker, President.

10 a.m.—Applied Social Science Research: Dr. W. Bevan, Duke University; Dr. C. Rubin, International City Management Assoc.; Dr. E. B. Sheldon, Social Science Research Council.

11:30 a.m.—Noon: General Discussion.

Noon—1:30 p.m.: Lunch.

1:30 p.m.—Research Utilization Discussion: Dr. L. Tambaugh, RANN.

2 p.m.—Discussion of Specific Issues and Work Assignments: Technology Assessment, Applied Research, Hot Pursuit Situations, Transfer of Results, State and Local Government. Outline of Task Force Report.

NOTE.—Plans are to be discussed for participation of the public at the fifth meeting of the Task Force scheduled for May 23–24, 1977.

4 p.m.—Adjourn.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77–11131 Filed 4–14–77;8:45 am]

FEDERAL TRADE COMMISSION

CIGARETTE TESTING

Tar and Nicotine Content Results

The latest results of cigarette testing were published in the FEDERAL REGISTER on Monday, December 13, 1976, 41 FR 54221.

Because the below listed cigarettes have been reformulated, they have been retested in accordance with the December 17, 1970, Commission's agreement with the Tobacco Industry. The results of the test are as follows:

	TPM dry, milligram per cigarette	Nicotine, milligram per cigarette
Parliament, king size, filter, hard pack.	10	0.6
Parliament, king size, filter, soft pack.	10	0.6
Parliament, 100 mm, filter, soft pack.	12	0.7

By direction of the Commission dated April 4, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77–11027 Filed 4–14–77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[EPA 714-4; OPP-42041A]

MISSOURI

Approval of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each state desiring to certify applicators to submit a plan for its certification program. Any State certification program under this section shall be maintained in accordance with the State Plan approved under this section.

On January 31, 1977, notice was published in the FEDERAL REGISTER (42 FR 5754) of the intent of the Regional Administrator, Environmental Protection Agency (EPA) Region VII, to approve on a contingency basis, the Missouri State Plan for Certification of Commercial and Private Applicators of Restricted Use Applicators of Restricted Use Pesticides (Missouri State Plan). Contingency approval was requested by the State of Missouri pending enactment of proposed amendments to the Missouri Pesticide Act of 1974 and subsequent promulgation of regulations described in the Plan.

Complete copies of the Missouri State Plan (except for sample examination) were made available for public inspection at the following location: Missouri Department of Agriculture, Jefferson City, Missouri; Environmental Protection Agency, Region VII, Kansas City, Missouri; and the U.S. Environmental Protection Agency, Federal Register Section, Technical Services Division, Office of Pesticide Programs, Washington, D.C.

The only comments received on the State plan during the 30-day public comment period were from the Missouri Department of Natural Resources. It suggested that recordkeeping requirements for certified public operators and commercial applicators include information pertaining to the method and/or site used for the disposal of pesticide containers and excess or obsolete pesticides. It also suggested that training sessions for private applicators, commercial applicators and dealers address proper disposal methods.

It is the Agency's position that Section 4 of the amended FIFRA establishes a coordinated State/Federal program for certifying applicators with Section 4(a)(1) making EPA responsible for prescribing applicator certification standards. Under Section 24 of FIFRA, the State Lead Agency is given a great deal of flexibility in developing their individual programs provided these programs meet the prescribed standards.

The comment suggesting additional recordkeeping requirements for pesticide disposal goes beyond the standards prescribed by EPA. It is a discretionary matter which the Missouri Department of Agriculture may or may not wish to pursue, but to which they are giving consideration.

Regarding the comment that pesticide training courses address disposal methods, the certification standards for private applicators, 40 CFR 171.5, and commercial applicators, 40 CFR 171.6 (which include public operators), make provisions for pesticide disposal. Training of both private and commercial applicators in Missouri has included disposal procedures as required under the Regulations covering standards of competency for private, public and commercial applicators. Refer to Chapter 281 RSMO (Supp. 1975); 2 CSR 70-25.110(2)(B) and 2 CSR 70-25.150(2)(B).

Therefore, it has been determined that the Missouri State Plan will satisfy the requirements of Section 4(a)(2) of the amended FIFRA and 40 CFR Part 171, if the proposed amendments are enacted and the subsequent regulations are promulgated as described in the Missouri State Plan.

This contingency approval shall expire October 21, 1977 if these terms and conditions are not satisfied by that time. On or before the expiration of the period of contingency approval, a notice shall be published in the FEDERAL REGISTER concerning the extent to which these terms and conditions have been satisfied, and the approval status of the Missouri State Plan as a result thereof.

EFFECTIVE DATE

Pursuant to Section 4(d) of the Administrative Procedure Act, 5 U.S.C. 533(d), the Agency finds that there is good cause for providing that the contingency approval granted herein to the Missouri State Plan shall be effective upon signature of this notice. Neither the Missouri State Plan itself nor this Agency's contingency approval of the Plan creates any direct or immediate obligation on pesticide applicators or other persons in the State of Missouri. Delays in starting the work necessary to implement the Plan, such as may be occasioned by providing some later effective date for this contingent approval, are inconsistent with the public interest. Accordingly, this contingent approval shall become effective immediately.

Dated: April 6, 1977.

CHARLES V. WRIGHT,
Acting Regional Administrator,
EPA Region VII.

[FR Doc.77-10993 Filed 4-14-77;8:45 am]

[FRL 714-3; OPP-180107A]

WASHINGTON STATE DEPARTMENT OF AGRICULTURE

Correction; Issuance of Specific Exemption To Use Thiabendazole To Control Fungi in Stored Sugar Beets

In FR Doc. 77-1630 appearing at pages 3702-3703 in the issue of January 19, 1977, the following correction should be made. On page 3703, item number 7 in the center column should read:

"7. Thiabendazole residues not to exceed six (6) ppm in or on sugar beets, fifty (50) ppm for sugar beet pulp, and forty (40) ppm for sugar beet molasses have been determined to be adequate to protect the public health. EPA has determined that established tolerances for thiabendazole in meat and milk will not be exceeded. In terms of tolerances pertinent to poultry or eggs, it is not possible to establish with certainty whether finite residues will be incurred, but there is no reasonable expectation of finite residues (40 CFR 180.6(a)(3)). The Food and Drug Administration of U.S. Department of Health, Education, and Welfare has been advised of this action;"

Dated: April 8, 1977.

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

[FR Doc.77-10994 Filed 4-14-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1037]

APPLICATION FOR REVIEW OF ACTIONS IN RULE MAKING PROCEEDINGS FILED

APRIL 11, 1977.

Docket or RM No.	Rule No.	Subject	Date received
20863: (RM-2824)	Sec. 73.202(b)	Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Rome, New York). Filed by Philip R. Hochberg, Attorney for Promedia Communications, Incorporated.	Apr. 6, 197

NOTE.—Oppositions to the application for review must be filed within 15 days after publication of this Public Notice in the FEDERAL REGISTER. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-11062 Filed 4-14-77; 8:45 am]

[Report No. I-337]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

APRIL 11, 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, regulations and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

Correction, Report No. I-333, dated 4-4-77, Hawaii Public Broadcasting Authority. The antenna size should have read: With an 11 meter antenna.

I-C70-C4-ML-77 All America Cable & Radio, Inc., Bayamon (Hato Tejas), Puerto Rico. Modification of license for authority to participate in the third (3) microwave radio frequency channel to be established in the existing Puerto Rico/St. Thomas Microwave System which extends between the AAC&R, Inc. microwave radio terminal station at Hato Tejas, Puerto Rico and the ITT World Communications-Virgin Islands microwave radio terminal at Magens Bay, St. Thomas, Virgin Islands via AAC&R, Inc. microwave radio repeater station located at El Yunque, Puerto Rico.

I-C71-C4-ML-77 All America Cable & Radio, Inc., Rio Grande, Puerto Rico. Modification of license relating to the above addition of a 3rd radio frequency channel in the Puerto Rico/St. Thomas Microwave System.

I-C72-C4-ML-77 All America Cable & Radio, Inc., Magens Bay, St. Thomas, Virgin Islands. Modification of license relating to the above addition of a 3rd radio frequency channel in the Puerto Rico/St. Thomas Microwave System.

I-C69-DSE-ML-77 Heritage Communications, Inc. (KB54), Des Moines, Iowa. Modification of license to permit the reception of signals of station WYAH-TV, Channel 27, Portsmouth, Virginia.

I-C70-DSE-ML-77 Houma Cablevision (KD61), Houma, Louisiana. Modification of license to permit the reception of signals of station WTCG-TV, Channel 17, Atlanta, Georgia.

I-C71-DSE-P-77 Western Union Telegraph Company, Sky Valley, California. For authority to construct a stranmit/receive earth station at this location to provide domestic communications service via the WESTAR satellite System. Lat. 38°09'39", Long. 122°11'18", Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 36000F5/36000F9. With a 10 meter diameter parabolic reflector.

I-C73-DSE-ML-77 American Cable Television, Inc. (KD48), Pampa, Texas. Modification of license to make technical changes to utilize a 4.5 meter antenna.

I-C75-DSE-P-77 Laurel Cable TV, Inc., Laurel, Montana. For atuhority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 45°40'08", Long. 108°46'24". Rec. freq: 3700-4200 MHz. Emission 3600 F9. With a 4.5 meter antenna.

280-DSE-P-77 RCA Alaska Communications, Inc., Atkasuk, Alaska. For authority to construct a communications satellite earth station at this location for operation with a domestic communications satellite system. Lat. 70°28'10", Long. 157°-23'40". Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

281-DSE-P-77 RCA Alaska Communications, Inc., Council, Alaska. For authority to construct a communications satellite earth station at this location for operation with a domestic communications satellite system. Lat. 64°53'42", Long. 163°-40'10". Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

282-DSE-P-77 RCA Alaska Communications, Inc., Port Graham, Alaska. For authority to construct a communications satellite earth station a this location for operation with a domestic communications satellite system. Lat. 59°21'00", Long. 151°-49'46". Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

283-DSE-P-77 RCA Alaska Communications, Inc., Telida, Alaska. For authority to construct a communications satellite earth station at this location for operation with a domestic communications satellite system. Lat. 63°23'03", Long. 153°16'34". Rec. freq: 3700-4200 MHz. Trans. freq.: 5925-6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

286-DSE-P-77 Twin City Area Educational Television Corporation, St. Paul, Minnesota. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 44°58'35", Long. 93°10'11". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

287-DSE-P-77 Northeastern Pennsylvania Educational Television Association, Scranton, Pennsylvania. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 41°17'34", Long. 75°46'28". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

288-DSE-P-77 Tennessee State Board of Education, Chattanooga, Tennessee. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 35°06'05", Long. 85°14'14". Rec. freq: 3700-4200 MHz. Emisalon 36000F9. With a 10 meter antenna.

289-DSE-P-77 University of Vermont and State Agricultural College, Winooski, Vermont. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 44°30'15", Long. 73°08'59". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

[FR Doc.77-11061 Filed 4-14-77;8:45 am]

[Report No. I-330]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

MARCH 28, 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, regulations and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

215-DSE-P-77 Ark City Cable T.V. Services, Inc., Arkansas City, Kans. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 37°01'33", Long. 97°00'38". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

216-DSE-P/L-77 Transponder Corp., Kansas City, Mo. For authority to construct, own and operate a domestic communications satellite earth station at this location. Lat. 39°04'04", Long. 94°36'11". Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 36000F9. With a 10 meter antenna.

217-DSE-P/L-77 Turner Communications Corp., Atlanta, Ga. For authority to construct and operate a transportable domestic communications satellite receive-only earth station at this location. Lat. 33.75, Long. 84.38. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

218-DSE-P-77 The State of Alaska, Marshall, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 61°52'53", Long. 162°05'09". Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

219-DSE-P-77 The State of Alaska, St. Michael, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 63°28'43", Long. 162°02'19". Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

220-DSE-P-77 The State of Alaska, Mountain Village, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 62°05'18", Long. 163°43'35". Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

221-DSE-P-77 The State of Alaska, Shaktoolik, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 64°21'18", Long. 161°11'22". Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

222-DSE-P-77 The State of Alaska, Koyuk, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this locaion. La. 64°55'54", Long. 161°09'23". Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

223-DSE-P-77 The State of Alaska, Elim, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 67°37'03", Long. 162°15'20". Rec. freq: 3700-4200

MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

224–DSE–P–77 The State of Alaska, Pilot Station, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 57°32' 53", Long. 157°34'30". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

225–DSE–P–77 The State of Alaska, Kasaan, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 55°32'24", Long. 132°24'04". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

226–DSE–P–77. The State of Alaska, Crooked Creek, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 61°52'16", Long. 158°06'06". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

227–DSE–P–77 The State of Alaska, Red Devil, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 61°47' 04", Long. 157°20'00". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

228–DSE–P–77 The State of Alaska, Russion Mission, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 61°47'11", Long. 161°19'11". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

229–DSE–P–77 The State of Alaska, Kaltag, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 64°19' 42", Long. 158°43'16". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

230–DSE–P–77 The State of Alaska, Central, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 65°34'16", Long. 144°48'58". Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

231–DSE–P–77 The State of Alaska, Alakanuk, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 62°41'-03", Long. 164°38'56". Rec. freq.: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

232–DSE–P–77 The State of Alaska, Golovin, Alaska. For authority to construct and establish channels of communications by means of a communications satellite earth station at this location. Lat. 64°32' 36", Long. 163°02'03", Rec. freq: 3700–4200 MHz. Trans. freq: 5925–6425 MHz. Emission 25.7F9. With a 4.5 meter antenna.

[FR Doc.77-11060 Filed 4-14-77;8:45 am]

[Doc. Nos. 21148, etc.]

RONALD E. BRUNK ET AL.

Order of Consolidation Designating Hearing

Adopted: April 7, 1977.

Released: April 11, 1977.

In the matter of Ronald E. Brunk, 3190 Holiday Drive, S., Salem, Oregon 97302, Application for amateur radio station and (Novice Class) operator license, Docket No. 21148; and Order to show cause why the license for Radio Station KND–4719 in the Citizens Band Radio Service should not be Revoked, Docket No. 21173; and Phillip M. Schiller, 1935 Lowen Avenue, NW., Salem, Oregon 97304, order to show cause why the license for Radio Station KKF–4756 in the Citizens Band Radio Service should not be revoked, Docket No. 21150.

The Chief, Safety and Special Radio Services Bureau, pursuant to delegated authority, has under consideration an Order released March 18, 1977, designating the above-captioned application for hearing; an Order to Show Cause (SS–132–77) released January 25, 1977,[1] directing Ronald E. Brunk to show cause why the license for Citizens Band radio station KND–4719 should not be revoked; an Order of Consolidation released March 22, 1977, which consolidated the two Brunk matters for hearing; and an Order to Show Cause (SS–129–77) released January 24, 1977, directing Phillip M. Schiller to show cause why the license for Citizens Band radio station KKF–4756 should not be revoked.

Both respondents have requested that hearings regarding their respective matters be held in Salem, Oregon, and the Chief Administrative Law Judge has ordered that hearings in these matters be held in Salem, Oregon, or vicinity. In addition, the matters raised by the above-mentioned Orders involve the same respondents and substantially the same issues.

Accordingly, consolidation of these proceedings will be conducive to judicial economy, the proper dispatch of business and to the ends of justice; *And it is ordered*, Pursuant to § 1.227 of the Commission's rules, that the proceeding on the issues specified in the Commission's order designating Brunk's application for hearing, released March 18, 1977, the proceeding on the issues raised in the Brunk Order to Show Cause, released January 25, 1977, and the proceeding on the issues raised in the Schiller Order to Show Cause, released January 24, 1977, are consolidated for hearing.

It is further ordered, That with respect to Brunk's application, the burden of proceeding with the introduction of evidence on issues (1) and (3) shall be on the Bureau and the burden of proof on all issues shall be upon the applicant.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof with respect to all issues raised in the Brunk Order to Show Cause and raised in the Schiller Order to Show Cause shall be upon the Bureau; and

It is further ordered, That a copy of the order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to Brunk and to Schiller at their respective addresses as shown in the caption.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and Enforcement Division.

[FR Doc.77-11063 Filed 4-14-77;8:45 am]

[1] See 42 FR 17517, April 1, 1977.

FEDERAL MARITIME COMMISSION

PUERTO RICO PORTS AUTHORITY AND PUERTO RICO MARITIME SHIPPING AUTHORITY

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, 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 May 5, 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.

William Karas, Esquire, Galland, Kharasch, Calkins & Short, Canal Square, 1054 Thirty-First Street NW., Washington, D.C. 20007.

Agreement No. T–3453, between the Puerto Rico Ports Authority (Port) and the Puerto

Rico Maritime Shipping Authority (PRMSA), grants PRMSA preferential berthing privileges at two berths located at the Port's Isla Grande Marine Terminal and preferential use of approximately 4.164 cuerdas of aprons and cargo-in-transit areas adjacent to these berths. The agreement's term extends from the date of its approval by this Commission to September 30, 1990, with two successive five-year renewal options. As compensation, the Port is to receive: (1) $8,808.25 annually for the preferential rights granted under the agreement; (2) $302,000 annually as a minimum dockage and wharfage guarantee; and (3) all other applicable charges imposed by the Port, such as demurrage and harbor dues. The agreement provides that the Port will retain secondary berthing privileges at the facility; dockage and wharfage collected from non-PRMSA vessels calling at the facility will be credited to PRMSA's annual minimum dockage and wharfage guarantee.

Agreement No. T-3453 supersedes Agreement No. T-3308, which is a subject of Docket No. 76-38, Arrangements Relating to the Use of Isla Grande Marine Terminal, San Juan, Puerto Rico.

By order of the Federal Maritime Commission.

Dated: April 12, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-11101 Filed 4-14-77;8:45 am]

SELF-POLICING STUDY

Availability

The Federal Maritime Commission has had prepared an independent study by Mr. Harry C. deVenoge entitled "Report on Self-Policing Within the Steamship Conference System." Copies of this two-volume study have been circulated within the maritime industry for comment.

The Commission wishes to receive comments on the study from all interested persons. Accordingly, the document is available for review at the Commission's offices in Washington, D.C.; New York, N.Y., New Orleans, La.; San Francisco, Calif.; and San Juan, Puerto Rico. Comments thereon may be filed with the Acting Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before May 20, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-11101 Filed 4-14-77;8:45 am]

FEDERAL RESERVE SYSTEM

ROYAL TRUST CO.

Order Approving Acquisition of Bank

The Royal Trust Company, Montreal, Quebec, Canada, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Baymeadows Bank, Jacksonville, Florida ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, with total assets of $4.1 billion (as of September 30, 1976) is one of the largest financial institutions in Canada, and operates, through its subsidiaries and other interests, in both Europe and the Caribbean Islands. In the United States, Applicant controls five Florida banks[1] and operates one nonbank subsidiary.[2] Through its five subsidiary banks, Applicant controls aggregate deposits of $148.8 million, representing approximately six-tenths of one percent of the total deposits held by commercial banks in Florida and ranks as the twenty-ninth largest commercial banking organization in that State.[3] Consummation of the subject proposal would increase Applicant's share of State deposits by approximately one-hundredth of one percent, and would not have a significant effect upon the concentration of banking resources in Florida.

Bank (with deposits of $7.4 million as of September 30, 1976) is the twelfth largest of the 17 banking organizations in the Jacksonville banking market[4] and holds approximately three-tenths of one per cent of the market's total commercial bank deposits. Applicant is not currently represented in the relevant banking market and its closest banking subsidiary to Bank is located approximately 185 miles southwest of Bank. There does not appear to be any existing competition between Bank and any of Applicant's present banking or nonbanking subsidiaries and, in view of the distances involved, it does not appear likely that any significant competition would develop in the future. While Applicant could enter the relevant market de novo, in view of Bank's relative size and its market position, the Board views the proposed acquisition of Bank as essentially a foothold entry by Applicant into the market.[5] Such entry by Applicant should have a salutary effect upon competition among the banking organizations in the relevant market by enabling Bank to compete more effectively in that market. Therefore, on the basis of the facts of record, the Board concludes that consummation of the proposal would not have any significant adverse effects upon either existing or potential competition in any relevant area, and that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks and Bank are regarded as being generally satisfactory. Therefore, considerations relating to banking factors are consistent with approval of the application. Applicant will provide Bank with its expertise in the areas of international banking, trust services, investment management, accounts receivable financing, factoring, personal property and equipment leasing, and will be a source of capital to Bank as needed. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by either the Board or the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[6] effective April 8, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-11046 Filed 4-14-77;8:45 am]

[1] Applicant currently controls these subsidiary banks through Royal Trust Bank Corp., Miami, Florida ("Corp."), itself a registered bank holding company. Corp. was formed in 1976 as a wholly owned subsidiary of Applicant in order to hold directly all of Applicant's banking interests in the United States.

[2] Information Systems Design of Florida, Inc., Miami, Florida ("ISD-Florida"), is a subsidiary of Information Systems Design, Inc., Santa Clara, California ("ISD-California"), which is owned by Computel Systems, Ltd. ("Computel"), a Canadian data processing company. By Order of December 6, 1973, the Board denied Applicant's retention of ISD-California after Applicant's acquisition of Computel pursuant to section 4(c)(9) of the Act [38 FR 34514 (1973); 60 Federal Reserve Bulletin 58 (1974)]. ISD-California is engaged in nonpermissible data processing activities while ISD-Florida is engaged in permissible data processing activities. The Board granted Applicant a 2-year period, after its acquisition of Computel, within which to divest itself of ISD-California. On January 31, 1977, the Board approved a plan of divestiture of ISD-California that had been submitted by Applicant. Immediately prior to consummation of the divestiture proposal, Applicant will retain ISD-Florida through a corporate reorganization by which ISD-Florida will be transferred to Applicant or to another subsidiary of Applicant.

[3] All banking data are as of December 31, 1975, unless otherwise indicated.

[4] The Jacksonville banking market encompasses Duval County and the Orange Park area in northern Clay County.

SIBLEY BANCORPORATION

Order Denying Formation of Bank Holding Company

Sibley Bancorporation, Sibley, Iowa, 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)) of formation of a bank holding company through acquisition of 93 percent or more of the voting shares of The First National Bank of Sibley, Sibley, Iowa ("Bank").

[5] Bank opened for business on May 15, 1975.

[6] Voting for this action: Chairman Burns and Governors Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Governors Gardner and Wallich.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of the Comptroller of the Currency, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank. Bank holds deposits of $9.6 million [1] and was, as of December 31, 1975, the second largest of five commercial banks in the relevant market,[2] controlling 20.6 percent of the total deposits in commercial banks in the relevant market. Upon acquisition of Bank, Applicant would control approximately .08 percent of the total commercial bank deposits in Iowa. Since the proposed transaction is essentially a reorganization of existing ownership interests whereby Bank's principal shareholders would substitute for their direct control of Bank indirect control of Bank through Applicant, consummation of the proposal would not eliminate any existing competition, nor would it appear to have any adverse effects on other banks or on the development of potential competition in the relevant market. Therefore, competitive considerations do not weigh against approval of the application.

The Board has indicated on previous occasions that it believes that a holding company should constitute a source of financial and managerial strength to its subsidiary bank(s), and that the Board will closely examine the condition of an applicant in each case with this consideration in mind. The record indicates that Bank is in need of additional capital. However, Applicant proposes to incur a substantial amount of debt to acquire shares of Bank. Applicant proposes to repay that debt over a period of twelve years solely with dividends from Bank. The dividend payout that would be required of Bank under Applicant's proposal would serve to weaken the capital position of Bank.[3] In view of the limited financial flexibility of Applicant, the strain that would be placed on Bank's capital position as a result of Applicant's debt servicing requirements, and other facts of record, the Board is of the opinion that considerations relating to the financial and managerial resources and future prospects of Applicant and Bank weigh against approval of the application.

[1] All banking data areas of December 31, 1975.

[2] The relevant banking market is Asceola County.

[3] Applicant proposes that Bank sell $150,000 in long-term notes to be due two years after Applicant's acquisition debt matures. Proceeds of that note issue would not constitute permanent capital and repayment of those notes may well serve further to weaken Bank's capital.

Applicant proposes to make minor changes in Bank's services. However, the Board finds that the considerations relating to the convenience and needs of the community to be served do not outweigh the adverse findings with respect to the financial and managerial resources and future prospects of Applicant and Bank.

On the basis of all of the circumstances concerning this application, the Board concludes that the financial considerations involved in this proposal present adverse circumstances bearing upon the financial resources and future prospects of both Applicant and Bank. Such adverse factors are not outweighed by any procompetitive effects or by substantial benefits that would result in serving the convenience and needs of the community. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied.

On the basis of the record, the application is denied for the reasons summarized above.

By order of the Board of Governors,[4] effective April 8, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-11045 Filed 4-14-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on April 11, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before May 3, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the regultory Reports Review Staff, 202-275-3532.

[4] Voting for this action: Chairman Burns and Governors Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Governors Gardner and Wallich.

FEDERAL TRADE COMMISSION

The FTC requests clearance for a single-time questionnaire on individual Retirement Accounts/Annuities (IRA's) created under the Pension Reform Act of 1974. The questionnaire is designed to determine whether IRA's are serving consumers' financial needs. Potential respondents are more than 1,600 consumers who have recently purchased these accounts. FTC estimates the reporting burden to be 15 minutes per response.

FTC requests clearance of a new single-time consumer mail survey to be used in developing information to assist the Commission in making policy decisions in the warranties area. Questionnaires will be sent to a sample of consumers drawn from an established National Consumer Mail Panel to ascertain information about their use of warranties in the purchase decision and in the event of product failure. FTC estimates the burden to average 45 minutes per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-11082 Filed 4-14-77;8:45 am]

DEPARTMENT OF THE INTERIOR

National Park Service

CANAVERAL NATIONAL SEASHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Canaveral National Seashore Advisory Commission will be held at 1 p.m. on April 30, 1977, at the Canaveral National Seashore temporary headquarters, State Route 402, 7 miles east of Titusville, Florida.

The purpose of the Canaveral National Seashore Advisory Commission is to consult and advise with the Secretary of the Interior on all matters of planning, development, and operation of the Canaveral National Seashore.

The members of the Advisory Commission are as follows:

Mr. Ney C. Landrum (Chairman)
Mr. Robert H. Hudson
Ms. Doris Leeper
Mr. James T. Swann
Mr. Thomas K. Wetherell
Mr. T. C. Wilder

After meeting at the temporary park headquarters at 1 p.m., the Commission members will be given an orientation trip and overflight of the seashore. Upon return to park headquarters, the following matters will be discussed:

(1) Discussion of planning process currently under way for Canaveral National Seashore.
(2) Function of Advisory Commissions.
(3) Landa Status Report.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and it is expected that not more than 25 persons will be able to attend. Space is not available for the public on the orientation trip and overflight. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Donald Guiton, Superintendent, Canaveral National Seashore, P.O. Box 2583, Titusville, FL 32780, Telephone 305–867–4675. Minutes of the meeting will be available for public inspection approximately 4 weeks after the meeting at park headquarters.

Dated: April 7, 1977.

DAVID D. THOMPSON, Jr.,
Regional Director,
Southeast Region.

[FR Doc.77-11058 Filed 4-14-77;8:45 am]

CUYAHOGA VALLEY NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held beginning 12 p.m. (EDT), on Thursday, May 5 and continuing until approximately 12 p.m. (EDT), Friday, May 6, 1977 at Punderson State Park, State Route 87, Newbury, Ohio.

The Commission was established by Pub. L. 93–555 to meet and consult with the Secretary of the Interior on matters relating to the development of the Cuyahoga Valley National Recreation Area and with respect to carrying out the provisions of the Public Law.

The members of the Commission are as follows:

Mrs. Robert G. Warren (Chairman)
Mr. Courtney Burton
Mr. Norman A. Godwin
Mr. Donald W. Haskett
Mr. Robert L. Hunker
Mr. James S. Jackson
Mr. Melvin J. Rebholz
Mrs. Roger L. Rossi
Mrs. George N. Seltzer
Ms. R. Robin Stillman
Mr. Barry K. Sugden
Mr. Robert W. Teater
Mr. William O. Walker

The meeting will be held in two segments in the Columbian Room of the Manor House Lodge at Punderson State Park. On Thursday, May 5, it will meet at 7:30 p.m. (EDT) and on Friday, May 6, it will meet at 9:30 a.m. (EDT). Matters to be discussed at this meeting include:

1. Superintendent's report.
2. Committee report on adverse land use.
3. Role of the Park in northeastern Ohio recreation.
4. Discussion of public transportation relating the Park.
5. Discussion of initial development priorities.
6. Plans for visitor use facilities.

The meeting will be open to the public. It is expected that about 50 persons in addition to members of the Commission will be able to attend this meeting. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from William C. Birdsell, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone 216–653–9036. Minutes of the meeting will be available for public inspection three weeks after the meeting at the office of Cuyahoga Valley National Recreation Area, located at 501 West Streetsboro Road (State Route 303), two miles east of Peninsula, Ohio.

Dated: April 6, 1977.

MERRILL D. BEAL,
Regional Director,
Midwest Region.

[FR Doc.77-11059 Filed 4-14-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[332–82]

CHANGE FROM "CHIEF VALUE" METHOD OF CLASSIFYING TEXTILE IMPORTS TO "CHIEF WEIGHT" METHOD; DOMESTIC IMPACT

Modified Proposal for Determining "Chief Weight"; Hearing

On January 7, 1977, in response to a request of the President, the Commission instituted an investigation under section 332(g) of the Tariff Act of 1930 to determine the probable domestic impact of changing from the current "chief value" method of classifying imports of textile articles to a "chief weight" method of classifying such imports (42 FR 5432).

In order to provide the requisite basis for assessing the probable domestic impact of changing to a chief-weight method of classifying imports of textile articles in the TSUSA the Commission on February 8, 1977, issued proposed rules for determining "chief weight" (42 FR 9062).

Based on comments received from interested parties, the Commission has modified those proposed rules. A draft of the modified rules together with an explanation of the changes made therein is published herewith in order to assist interested parties in the preparation of their written statements or testimony regarding this investigation.

Hearings. The first in a series of public hearings to be held in connection with this investigation will be held at 10 a.m., April 26, 1977, at the Briefing Center, Commerce Center, corner of Trade and Church Streets, Charlotte, North Carolina 28233.

All interested persons will be given an opportunity to be present, to produce evidence, and to be heard at the hearing. Requests to appear at the public hearing should be addressed to the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, and should be received not later than noon of the fifth calendar day preceding the hearing at which an appearance is requested.

Written submissions. In lieu of or in addition to appearances at the public hearings, interested persons may submit written statements. Any business information which a submitter desires the Commission to treat as confidential shall be submitted on separate sheets, each clearly marked at the top "Confidential Business Data." All written submissions, except for confidential business data, will be made available for inspection by interested persons. To be assured of consideration by the Commission, written statements should be submitted at the earliest practicable date but not later than June 17, 1977. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: April 11, 1977.

KENNETH R. MASON,
Secretary.

For purposes of determining chief weight in the conduct of investigation 332–82, the provisions of the TSUS applicable to imports of textile articles should be treated as if they had been amended as follows:

(a) By deleting headnote 7 to schedule 3 and substituting in lieu thereof the following new headnote:

7. For the purposes of the tariff schedules—

(a) The term "*of*" when used between the description of an article and (i) the term "textile materials," or (ii) a class of textile materials, or (iii) a named textile material within any such class, or (iv) any of the foregoing and specified nontextile materials means that the article is, *in its imported condition*, wholly or in chief weight thereof;

N.B. For purposes of this headnote where the present TSUS combines two or more classes of textile materials (e.g., vegetable fibers) the TSUS provision should be read as if it were subdivided into the applicable textile classes enumerated in paragraph (b) below.

(b) The classes of textile materials referred to in paragraph (a)(ii) are: (i) cotton, (ii) vegetable fibers (except cotton), (iii) wool and related animal hair, (iv) silk, (v) man-made fibers, and (vi) other textile materials, and an article is in chief weight of one of these classes if the weight of the materials of such class is greater than the weight of the materials of each other class in the article;

(c) An article is in chief weight of a named textile material within a class specified in paragraph (b), if the weight of such named textile material is greater than the weight of each other material in it class and is also greater than the weight of the material of each other class in the article;

(d) *An article is in chief weight of a textile material and specified nontextile material as set forth in paragraph (a)(iv) if the aggregate weight of the textile and nontextile materials is greater than the weight of each other single materials in the article;*

(e) An article is in chief weight of textile materials if the aggregate weight of all such materials in the article is greater than the weight of each separate nontextile component material in the article (other than a nontextile material that, as provided for elsewhere in the schedules, is to be disregarded in making the chief determination), whether or not in chief value of such nontextile component material;

(f) An article which is in chief weight of textile materials as provided for in paragraph (e) is to be classified as being in chief weight of the named class of textile materials or

of the named textile material in much class as provided for in paragraph (b) and (c) respectively, regardless of the weight of the respective nontextile component materials in the article;

(g) A textile article in which two or more textile fibers are of equal weight and no other textile fiber predominates by weight shall be subject to duty under the tariff description applicable to that textile fiber of equal weight for which the original statutory rate is highest, and, should the highest original statutory rate be applicable to two or more of such descriptions the article shall be subject to duty under that one of such descriptions which first appears in the schedules;

(h) In determining the classification of an article not in chief weight of textile materials, the value of any textile material in such article shall be disregarded.

(b) By substituting the term "chief weight" for the term "chief value" wherever it appears in the article descriptions of schedule 3 and in the following schedule and subpart headnotes in schedule 3 of the TSUS:

(1) Schedule 3 headnotes 3(c) and 4(b);
(2) Schedule 3, part 1, subpart F headnote 1(a); and
(3) Schedule 3, part 5, subpart A headnote 3 and subpart B headnote 2; and

(c) By adding the term "or chief weight" immediately after the term "chief value" in headnote 2 to subpart C and headnote 3 to subpart D of part 1 to schedule 7.

EXPLANATION OF CHANGES IN THE PROPOSED RULES

The proposed rules issued on February 8, 1977, have been modified to make necessary or desirable changes based on comments received from the public and interested governmental agencies. Changes in the proposed rules are indicated by the italicized language.

Paragraph (a) was modified as follows—

Headnote 7(a). The phrase "in its imported condition" was added to this headnote in order to clarify when the propose weight comparisons are to be made. The note was added to the headnote to reinforce the principles set forth in the explanation to the previously issued rules which provide that, in determining the component textile class in chief weight, comparisons are to be made only among the six classes of textile materials referred to in the headnote, notwithstanding the fact that a tariff provision may combine 2 or more of such classes (e.g., vegetable fibers).

Headnote 7(d). New headnote 7(d) was added to clearly specify the procedure for determining when an article is in chief weight of textile materials and specified non-textile materials as provided for in paragraph (a)(iv) of this headnote.

Headnote 7(g). New headnote 7(g), which is based on general headnote 10(d), was added to provide a rule in the case where a textile article contains two or more textile fibers of equal weight and no other textile fiber predominates by weight. In the absence of a rule governing this situation, such articles would be classified in residual textile provisions of the TSUS.

Headnote 7(h). New headnote 7(h) was drafted to cover the situation where an article is in chief value of textile materials but in chief weight of non-textile materials. Under the headnote when an article is determined to be not in chief weight of textile materials the textile component materials of the article are disregarded in determining the classification of the article.

The proposed rules previously published inadvertently substituted the term chief weight for chief value in headnote 2 to subpart C and headnote 3 to subpart D of part 1 to schedule 7. It was not intended to substitute the chief weight method for the chief value method of classification with respect to the nontextile articles covered by those headnotes. Paragraph (C) was added to the proposed rules in order to rectify this situation.

[FR Doc.77-10996 Filed 4-14-77;8:45 am]

PRELIMINARY DRAFT OF PARTS OF ENUMERATION OF ARTICLES TO PROVIDE FOR COMPARABILITY AMONG U.S. IMPORT, PRODUCTION, AND EXPORT DATA

Release for Public Comment

Notice is hereby given that the United States Departments of the Treasury and Commerce and the United States International Trade Commission are releasing for public comment the following preliminary draft of parts of an enumeration of articles which will provide for comparability among U.S. import, production, and export data pursuant to section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)), as amended by section 608(a) of the Trade Act of 1974 (19 U.S.C. 2101):

Benzenoid chemicals and products; organic chemical compounds; chemical mixtures; drugs and related products; synthetic resins and plastics materials; rubber; flavoring extracts; essential oils; glue, gelatin, and related products; aromatic or odoriferous substances; perfumery, cosmetics, and toilet preparations; surface-active agents; soap and synthetic detergents; dying and tanning products; explosives; fatty substances, camphor, chars and carbons, waxes, and other products—schedule 4, parts 1, 2D, 2E, 3, 4, 5, 6, 7, 8, 9A, 12, and 13, Tariff Schedules of the United States Annotated (TSUSA); release date: April 14, 1977;

Metals, their alloys, and their basic shapes and forms; metallic containers; wire cordage; wire screen, netting and fencing; bale ties; metal leaf and foil; metallics; nails, screws, bolts, and other fasteners; locks, builders' hardware; furniture, luggage, and saddlery hardware; miscellaneous metal products; metal products not specially provided for—schedule 6, part 2 and part 3A, 3B, 3C, and 3F, TSUSA; release date: April 22, 1977.

Machines for working metal, stone, and other materials—schedule 6, part 4F, TSUSA; release date: April 12, 1977; and

Rubber and plastics products—schedule 7, part 12, TSUSA; release date: April 13, 1977.

Background.—The preparation of the draft by the three agencies has generally proceeded from recommendations made in a joint report of the Secretary of Commerce and the U.S. International Trade Commission, dated August 1, 1975, submitted to Congress and the President pursuant to section 608(b) of the Trade Act of 1974, entitled "Principles and Concepts Which should Guide the Organization and Development of an Enumeration of Articles Which Would Result in Comparability of U.S. Import, Production, and Export Data."

The report noted that the principal advantages of achieving comparability among import, production, and export data are—

1. To permit the development and implementation of a more coordinated and efficient program for the administration, interpretation, and maintenance of national systems;

2. To improve and facilitate the publication of trade data most useful for international economic analysis;

3. To permit more reliable analysis of the impact of external trade on domestic industry.

In making specific recommendations concerning the organization and development of an enumeration of articles which would result in comparability, the report recognized various prerequisites to achieving comparability, such as adhering to sound nomenclature principles, employing identical descriptive techniques and product definitions using compatible standards of valuation and measurement and providing for centralized responsibility for interpretation and coordinated responsibility for maintenance. The report also acknowledged many of the practical considerations involved in achieving comparability among the three generally discordant classification systems presently used for the collection of import, production, and export data, including reconciling differences among the three existing systems, preserving statistical continuity, and achieving useful levels of product comparability with the least disruptive impact on current programs and reporting.

In summary, the specific recommendations provided that—

1. The organizational framework of the TSUS should be adopted as the basis for the enumeration of the export schedule.

2. The review and development of an enumeration should take into account the current import, production, and export product classes, with the primary aim of obtaining comparability at a common level.

3. Changes may be proposed to any system, including combinations, subdivisions, and modifications of existing language and content. In particular, consideration should be given to updating of definitions and terms to make them more reflective of current practice in the trade. It must be borne in mind that the TSUS structure and detail are legally based. Therefore, the enumeration should consist of individual TSUSA classifications, or combinations of individual TSUSA classifications (current or as proposed by this program), since this is the only way to attain comparability to the relatively rigid classifications of imports. Combinations may be made of commodities falling in different TSUS classes, if necessary, as long as they consist of aggregations of individual TSUSA classifications.

Continuing program for statistical annotation.—The establishment of an

meration for statistical purposes is, and should be looked upon as, a continuing program. It is intended that the initial modifications to the import, production, and export schedules will serve as a basis for further refinement and change. Modifications to each of the systems will be made from time to time to reflect changing statistical needs and also to improve the comparability of U.S. trade data with trade data reported by other countries on the basis of the Standard International Trade Classification (SITC). The publication of trade data by the Department of Commerce on the basis of the SITC will continue.

Modifications to the Tariff Schedules of the United States.—Any proposals to modify the TSUS (other than statistical annotations thereto) could not be implemented without legislative approval. After comments have been recovered and reviewed, consideration may then be given to the extent of, and need for, amendatory legislation.

Comments by interested parties.—Over the next several months further preliminary drafts will be released for public comment and consideration. Interested parties are invited to comment on all aspects of the comparability program. Specific recommendations and proposals are invited with respect to the extent to which the drafts would—

Recognize the specific needs of users of statistics;

Facilitate economic analysis;

Reflect sound principles of commodity identification and specifications; and

Impose undue reporting burdens for business establishments.

We would also welcome comments with respect to modifications which would provide greater comparability with the SITC (revision 2).

Copies of the drafts are available from the Chief, Industry and Commodity Classification Branch, Economic Surveys Division, U.S. Bureau of the Census, Washington, D.C. 20233.

Written comments should be submitted at the earliest practicable date, but, to be assured of consideration, not later than 60 days after release of the drafts. Such statements should be submitted to the Chief, Industry and Commodity Classification Branch, at the address shown above.

By order of the Commission.

Issued: April 11, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-10997 Filed 4-14-77;8:45 am]

STEEL TOY VEHICLES

Investigation

Notice is hereby given that a complaint was filed with the United States International Trade Commission on March 11, 1977, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and the complaint was amended on March 24, 1977, on behalf of Tonka Corporation, 10505 Wayzata Boulevard, Hopkins, Minnesota 55343, alleging that unfair methods of competition and unfair acts exist in the importation of certain steel toy vehicles into the United States, or in their sale, by reason of the alleged coverage of such steel toy vehicles by all claims of U.S. Letters Patents, 3,462,879 and 3,730,594 and by reason of their simulation of the size, appearance and design of certain domestically manufactured products of said Tonka Corporation in such a way as to pass off such steel toy vehicles as products of said Tonka Corporation. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests that the imports in question be permanently excluded from entry into the United States.

Having considered the complaint and the amended complaint, the United States International Trade Commission, on April 7, 1977, *ordered*—

(1) That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c), whether, on the basis of the allegations set forth in the complaint, there is a violation of subsection (a) of this section in the unauthorized importation of—

(a) Certain steel toy vehicles having a hinge connection; and

(b) Steel toy truck beds and carrying receptacles having elements thereof cooperating to form a hinge connection

into the United States, or in their sale, by reason of such steel toy vehicles having a hinge connection allegedly being covered by one or more of the claims of U.S. Letters Patent 3,462,879;

(c) Certain wheel and tire assemblies for use in toy vehicles;

(d) Components of such wheel and tire assemblies, and

(e) Certain steel toy vehicles containing such wheel and tire assemblies

into the United States, or in their sale, by reason of such steel toy vehicles containing a wheel and tire assembly allegedly being covered by the claims of U.S. Letters Patent 3,730,584; and

(f) Certain steel toy vehicles, incorporating nonfunctional design features of complainant's steel toy vehicles

into the United States, or in their sale, by reason of such steel toy vehicles allegedly being passed off as the products of aforesaid Tonka Corporation, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) That, for the purpose of the investigation so instituted, the following persons, alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, are hereby named as respondents upon which the complaint, the amendments to the complaint, and this notice are to be served:

DOMESTIC IMPORTER

Buddy L Corporation, 200 Fifth Avenue, New York, New York 10010.

FOREIGN EXPORTERS

Apollo Trading, Ltd., 2-22-3 chome, Yatsugi Katsushika-ku, Tokyo, Japan.
Universal Trading, Ltd., P.O. Box 79, Asakusa, Tokyo, Japan.
International Sales (Far East) Ltd., Room 1220, Tung Ying Building, 100 Nathan Road, Kowloon, Hong Kong.

FOREIGN MANUFACTURERS

Watanabe Toy, Ltd., 193 Nakane, Noda-cho, Chiba-ken, Japan.
Yamakatsu Kogyo, Ltd., 25, 3-chome, Nishi-Shinkoiwa, Katsushika-ku, Tokyo, Japan.
Bell Toy Co., Ltd., 17-1 2-chome, Shiratori, Katsushika-ku, Tokyo, Japan.
Kimura Toy, Ltd., 198 Tamiya, Ushiku-cho, Inashiki-gun, Ibaragi-ken, Japan.
Meiwa Kogyo, Ltd., 4-chome, Towa, Adachi-ku, Tokyo, Japan.
Makabe Gangu Seisakusho, Ltd., 5-4 chome, Kohoku, Adachi-ku, Tokyo, Japan.
Kobori Seisakusho, 8-8, 4-chome, Sumida-ku, Tokyo, Japan.
Superdex Manufacturers, 34 Hung To Road, 3d Floor, Kwun Tong, Kowloon, Hong Kong.

(3) That, for the purpose of the investigation so instituted, Judge Myron R. Renick, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby appointed as presiding officer, and

(4) That, for the purpose of the investigation so instituted, Edward M. Lebow, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named as Commission Investigative Attorney.

Responses must be submitted to the parties in accordance with § 210.21 of the Commission's Rules of Practice and Procedure, as amended (41 FR 17710, Apr. 27, 1976). Pursuant to §§ 210.16(d) and 210.20(a) of the Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint.

Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response may be subject to the penalties described in § 210.21(d) of the Commission's Rules of Practice and Procedure.

The complaint, with the exception of confidential information referred to therein, is available for inspection by interested persons at the Office of the Secretary, United States International Trade Commission Building, Washington, D.C., and in the New York City office of the Commission, 6 World Trade Center.

By order of the Commission.

Issued: April 11, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-10998 Filed 4-14-77;8:45 am]

[AA1921-Inq.-6]

IMPRESSION FABRIC OF MANMADE FIBER FROM JAPAN

Determination

On March 10, 1977, the United States International Trade Commission received advice from the Department of the Treasury that, in accordance with section 201(c) of the Antidumping Act of 1921, as amended, an antidumping investigation was being initiated with respect to impression fabric of manmade fiber from Japan, and that, pursuant to section 201(c) of the act, information developed during the summary investigation led to the conclusion that there is substantial doubt whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of this merchandise into the United States. Accordingly, the Commission on March 14, 1977, instituted Inquiry No. AA1921-Inq.-6, under section 201(c)(2) of the act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing in connection with the inquiry was held in New York City on March 28, 1977. Notice of the institution of the inquiry and the hearing was duly given by posting copies of the notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's Office in New York City, and by publishing the original notice in the FEDERAL REGISTER of March 21, 1977 (42 FR 15375).

On the basis of its inquiry with respect to imports of impression fabric of manmade fiber from Japan possibly sold at less than fair value as indicated by the Department of the Treasury, the Commission (Vice Chairman Parker and Commissioners Moore, Bedell, and Ablondi)[1] does not determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

STATEMENT OF REASONS OF VICE CHAIRMAN JOSEPH O. PARKER AND COMMISSIONERS WILL E. LEONARD, GEORGE M. MOORE, CATHERINE BEDELL, AND ITALO H. ABLONDI

On March 14, 1977, the United States International Trade Commission instituted inquiry No. AA1921-Inq.-6 under section 201(c)(2) of the Antidumping Act, 1921, as amended. The purpose of this 30-day inquiry was to determine whether "there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation" into the United States of impression fabric of manmade fiber from Japan, which is the subject of a pending Department of the Treasury (Treasury) investigation under the Antidumping Act, 1921.[2]

Determination. On the basis of the information developed with respect to this inquiry, we do not determine that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established,[3] by reason of the importation into the United States of impression fabric of manmade fiber from Japan possibly sold at less than fair value as indicated by the Treasury.[4] As a result of this determination by the Commission, Treasury is authorized to proceed with its investigation of sales at less than fair value pursuant to the Antidumping Act, 1921.

Discussion. In this inquiry, evidence has been presented that the producers of slit impression fabric of manmade fiber may be adversely affected by imports possibly sold at less than fair value from Japan.[5] Three U.S. firms, which account for the bulk of domestic production, produce slit impression fabric for sale; a fourth firm produces such fabric on a commission basis.

Treasury advised the Commission that U.S. imports of impression fabric from Japan had declined in 1976 and that U.S. producers' shipments had increased in that year. In making its decision in this matter, the Commission did not consider these two considerations as determinative and in addition examined other evidence, as noted below.

Apparent U.S. consumption of slit impression fabric increased substantially from 32.9 million square yards in 1972 to 44.4 million square yards in 1974. In 1975, consumption declined by 14 percent to 38.3 million square yards, but then increased to 42.0 million square yards in 1976. U.S. producers' shipments of slit impression fabric followed a trend similar to that for consumption.

With respect to the apparent position of imports of slit impression fabric from Japan in the U.S. market, such imports increased annually from an estimated 0.7 million square yards in 1972 to 3.2 million square yards in 1975. The ratio of such imports to U.S. consumption increased from 2 percent in 1972 to 8 percent in 1975. Although imports declined in 1976 to 2.5 million square yards, the ratio of imports from Japan to U.S. consumption remained higher than in all preceding years except 1975. Preliminary data provided by the Department of the Treasury indicated that possible margins of sales at less than fair value ranging from 3 to 15 percent were applicable to imports from Japan during September 1976. These margins could account for the amount by which Japanese imports apparently undersold the domestically produced fabric in 1975 and 1976.

U.S. imports of slit impression fabric from Japan averaged 2.8 million square yards in 1975 and 1976, compared with 1.7 million square yards in 1973 and 1974. This increase in imports was accompanied by a decline in U.S. producers' employment, profitability, and prices. The average number of production and related workers engaged in the slitting of impression fabric declined from 344 in 1974 to 272 in 1976. Net sales of impression fabric declined from $36.8 million in 1974 to $33.8 million in 1976, while the ratio of the firms' net operating profit to net sales declined from 12 percent in 1974 to 8 percent in 1976. The lowest net selling prices received by U.S. producers for most size categories of the fabric in 1976 were from 4 to 6 percent lower than those received in 1975.

Conclusion. We determine that the evidence obtained in this investigation does not warrant the conclusion that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of impression fabric of manmade fiber from Japan possibly sold at less than fair value.[6]

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[1] Commissioner Leonard determines that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Chairman Minchew determines that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

[2] Commissioner Ablondi notes that the Commission completed investigation No. AA1921-116 on May 14, 1973, with respect to the same articles that are the subject of this inquiry. In that case the Commission unanimously determined in the negative. See Impression Fabric of Manmade Fiber From Japan, Investigation No. AA1921-116 * * *, TC Publication 557, May 1973. However, since the Commission's 1973 investigation, imports of slit impression fabric of manmade fiber from Japan have increased markedly; in 1976 they amounted to approximately four times the level that existed during the prior investigation.

[3] The question of no reasonable indication of the prevention of establishment of an industry was not an issue in this inquiry.

[4] Commissioner Leonard determines that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States of impression fabric of manmade fiber from Japan possibly sold at less than fair value as indicated by the Treasury.

[5] Commissioner Leonard notes that while the domestic industry producing impression fabric could be considered to include operations at several manufacturing stages, i.e., weaving, finishing, slitting, and inking, comprehensive data in this inquiry were available only for the operations of the U.S. producers which slit the fabric. These producers would account for a substantial part of any such larger industry. It is believed that the conclusions reached herein would not change if data were available with repect to any such larger industry.

[6] Commissioner Leonard notes that Treasury requested that the Commission advise Treasury "as to whether it determines there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being estab-

STATEMENT OF REASONS OF CHAIRMAN DANIEL MINCHEW

On March 10, 1977, the United States International Trade Commission (Commission) received advice from the Department of the Treasury that, in accordance with section 201(c) of the Antidumping Act of 1921, as amended, an antidumping investigation was being initiated with respect to impression fabric of manmade fiber from Japan. The Department of the Treasury concluded, pursuant to a summary investigation, that there is substantial doubt whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of this merchandise into the United States. Upon receipt of this information, the Commission, on March 14, 1977, instituted inquiry No. AA1921–Inq.-6 under section 201(c)(2) of the Antidumping Act of 1921, as amended, to determine whether "there is no reasonable indication that an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation" into the United States of impression fabric of manmade fiber from Japan, which is the subject of the pending Department of Treasury investigation.

Investigations conducted by the Commission on inquiries under section 201(c)(2) must be completed within 30 days.

Determination. On the basis of the information developed in this inquiry, I have determined that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established,[1] by reason of the importation into the United States of impression fabric of manmade fiber from Japan allegedly sold at less than fair value (LTFV).

The product. Impression fabrics of manmade fibers are highly specialized woven fabrics which are suitable for making typewriter and machine ribbon. Their manufacture requires a high degree of precision in construction, weave, and finish. Impression fabrics are, to a greater extent than most other fabrics of manmade fibers, made on machinery and by processes which are highly specialized. The "impression" is that made on paper by a key striking the ribbon, and the fabrics are used solely as inking ribbons on typewriters, adding machines, computers, and similar machines.

The U.S. industry. There are four major operations involved in the manufacture of impression fabrics: weaving, finishing, slitting, and inking. Some U.S. firms specialize in a single major operation, but in most cases a firm producing impression fabric performs more than one of these operations. An exception is the inking operation—no domestic firm which inks impression fabric has involved itself in any of the other major operations. Six domestic firms weave impression fabric, one of which also performs finishing and slitting operations. The other five domestic weavers sell the bulk of their output, some of which is finished internally, to two domestic firms which perform slitting. In addition to these firms, there are three U.S. firms, called converters for purpose of this inquiry, which take title to either imported or domestically produced impression fabric and arrange to have the fabric slit, and sometimes finished, on contract. Most of the impression fabric purchased by converters is imported.

No reasonable indication of injury to the U.S. industry. In making my determination in this inquiry, I considered the industry most likely to be adversely affected by imports of the subject investigated to consist of the U.S. facilities devoted to the slitting of impression fabric of manmade fiber. Three U.S. firms, which account for the bulk of domestic production, produce slit impression fabric for sale; a fourth firm slits such fabric on a commission basis.

Apparent U.S. consumption of slit impression fabric increased substantially, from an estimated 32.9 million square yards in 1972, to 44.4 million square yards in 1974, at which time shortages developed in the U.S. market. In 1975, a year of over-supply, consumption declined by 14 percent, but then increased to 42.0 million square yards in 1976. U.S. producers' shipments of slit impression fabric followed a trend similar to that for consumption, declining in 1975 from their 1974 peak, but increasing by 13 percent in 1976.

Imports of slit impression fabric from Japan increased from an estimated annual average of 0.7 million square yards in 1972–73 to 2.1 million square yards in 1974, due to a shortage of domestic supplies. Imports continued to increase to 3.1 million square yards in 1975, mainly because of the long lead times required between orders by U.S. customers and actual delivery. Most imports shipped in 1975 were contracted for in 1974, at which time continued shortages were anticipated in the domestic market. The anticipated shortages never materialized, however, as witnessed by the decline in U.S. consumption, and imports of the slit fabric from Japan subsequently declined by 23 percent, to 2.4 million square yards in 1976. The ratio of imports to consumption declined from a high of 8 percent in 1975 to 6 percent in 1976.

Data supplied by the Department of Treasury indicate possible less-than-fair-value margins ranging from 3 to 15 percent for September 1976. As indicated above, imports of slit impression fabric from Japan declined by 23 percent in 1976, while shipments by U.S. producers increased by 13 percent. Many large users of the fabric, such as IBM Corp. which had not imported impression fabric until the 1974 shortage, once again turned to U.S. producers to meet their demand requirements. Other customers have indicated a desire to continue purchasing imports on a small scale, in order to guard against possible impression fabric shortages in the future. Virtually all purchasers of slit impression fabric have indicated that price was not a significant factor in decisions to import.

While there is some evidence that U.S. producers' employment and profitability were lower in 1976 than in 1974, indications point to the decline in U.S. consumption as the primary cause of such developments. Net sales of slit impression fabric by U.S. producers increased in 1976, in both absolute terms and as a percentage of U.S. consumption, and there is every reasonable indication that the trend will continue.

It should also be noted that in 1976, under the Bilateral Arrangement with Japan, a restraint level of 5.7 million square yards was invoked on annual imports of wide impression fabric from Japan. A similar restraint level has recently been arranged for imports of narrow impression fabric, limiting such imports from Japan to their 1976 level. These restraint levels add further support to my conclusion that imports of impression fabric from Japan pose no threat of injury to the U.S. industry.

By order of the Commission.

Issued: April 12, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-11113 Filed 4-14-77;8:45 am]

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[1] Based by possible less than fair value imports of impressing fabric of manmade fiber from Japan on each of the following three categories: TSUSA items 338.3014, 338.3016, and 347.6020 in the aggregate; TSUSA items 338.3014 and 338.3016 in the aggregate; and TSUSA item 337.6020 individually." In this inquiry, data on the domestic industry necessary to make such analyses were not available to the Commission. Available data were based on U.S. producers' operations at various stages of manufacturing, namely weaving and slitting, whereas the import categories specified by Treasury combined both slit and unslit fabric except in one instance where an analysis based on only part of the slit fabric imports was requested. Within the time frame provided for inquiries of this sort, the Commission could not obtain data for the analyses necessary to be responsive to Treasury's request.

[1] The question of no reasonable indication of the prevention of establishment of an industry is not at issue in this inquiry.

DEPARTMENT OF LABOR

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 U.S.C. 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 11th day of April 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Applications received during the week ending Apr. 8, 1977

Name of applicant	Location of enterprise	Principal product or activity
O. P. Industries, Inc.	Arroyo, P.R.	Manufacture of masonry products and stove castings.
Trigo Corp.	Toa Baja, P.R.	Production of alcoholic beverages.
Mission Marine Associates	Lower bank, Egg Harbor City, N.J.	Manufacture of inboard motor boats.
The Mullan Brick Co.	Elkton, Md.	Manufacture of unglazed brick.
Acme Fishing Tool Co.	Parkersburg, W. Va.	Manufacture of cable drilling tools and industrial forgings.
Plantation Pecans, division of Pinewood Plantation, Inc.	Leesburg, Ga.	Buy, clean, grade, shell, package, and sell pecans.
Kerr Glass Manufacturing Corp. (tenant of Wilson County).	Wilson, N.C.	Manufacture of glass bottles.
W. E. Parks Lumber Co., Inc.	Port Gibson, Miss., and Newellton, La.	Manufacture of hardwood and softwood lumber products.
Noble Corp.	Anniston, Ala.	Manufacture of cylinder liners for diesel engines.
Lafayette Gin Co., Inc.	Oxford, Miss.	Ginning of cotton.
B. & M. Manufacturing Co., Inc. (tenant of Union County Industrial Development Authority).	Blairsville, Ga.	Screw machine products.
Ellijay Spinning Mills, Inc. (tenant of Union County Industrial Development Authority).	Blairsville, Ga.	Manufacture of carpet yarn.
The Hunt Grain Co.	Marion, Ky.	Buying and selling of grains.
Cutting-Pike Investment Corp.	Hammond, La.	Sales and service on industrial equipment.
Elkner Nurseries	Tyler, Tex.	Wholesale nursery growing, processing, and marketing.
Kopperl Locker Plant, Inc.	Kopperl, Tex.	Retail sales and processing of meats.
American Beef Packers, Inc., Western Iowa Pork Co.	Harlan, Iowa.	Hog slaughtering.
Hyplains Dressed Beef, Inc.	Dodge City, Kans.	Slaughter and processing of beef cattle.
De Lorean Motor Co.	Sedgwick County, Kans.	Automotive manufacturing plant.
Outrider, Inc.	Laramie, Wyo.	Motel and convention center.
Leonard C. Versteegen	Avondale, Ariz.	Manufacture of hay cubers, cotton pickers, and parts.
Mid-Western Nurseries, Inc.	Tahlequah, Okla.	Growing, processing wholesale nursery products.

[FR Doc.77-11066 Filed 4-14-77;8:45 am]

Occupational Safety and Health Administration

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on May 5 and 6, 1977, in Convention Hall–C, 57 Park Plaza, Howard Johnson's Motor Lodge, 200 Stuart Street, Boston, Massachusetts 02116.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health, Education and Welfare on matters relating to the administration of the Act.

The meeting will begin at 9:00 a.m. The public is invited to attend. Agenda items will include an update of OSHA and NIOSH activities and action on reports from the subgroups. The Subgroup on Compliance will present recommendations to NACOSH on new concepts in compliance techniques and the system for processing employee discrimination complaints under section 11(c) of the Act. The Subgroup on Policy/Budget will present recommendations on the OSHA/NIOSH interface. The Subgroup on Standards in conjunction with the Subgroup on Policy/Budget will present recommendations on the proposed regulation of certain toxic substances.

For additional information contact:

J. Goodell, Acting Director, Division of Consumer Affairs, Occupational Safety and Health Administration, Department of Labor, OSHA, Room N-3635, Third Street and Constitution Avenue, NW., Washington, D.C. 20210, Phone: (202) 523-8024.

Any written data or views concerning these agenda items or suggestions for future agenda items which are received by the Division of Consumer Affairs before the meeting, preferably with 20 copies, will be presented to the Committee and included in the official record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be schedlued at the discretion of the Chairman, depending on the extent to which time permits.

Official records of the meeting will be available for public inspection at the above address.

Signed at Washington, D.C., this 12th day of April 1977.

J. GOODELL,
Executive Secretary.

[FR Doc.77-11090 Filed 4-14-77;8:45 am]

Office of the Secretary

AMERICAN MOTORS CORP., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm 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.

Petitioners meeting these eligibility requirements 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. The investigations 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.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations 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 April 25, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 25, 1977.

The petitions filed in this case are 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 31st day of March 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

Appendix

Petitioner (union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Motors Corp. (UAW).	Detroit, Mich.	Mar. 31, 1977	Mar. 28, 1977	TA-W-1,929	American Motors passenger cars.
American Motors Corp. (UAW).	Kenosha, Wis.	do.	do.	TA-W-1,930	American Motors passenger cars.
American Motors Corp., South Charleston Stamping Plant (UAW).	So. Charleston, W. Va.	do.	do.	TA-W-1,931	Metal stampling and assemblies for American Motors passenger cars.
Bouquet Fashions (ILGWU).	Lancaster, Calif.	Mar. 29, 1977	Mar. 23, 1977	TA-W-1,932	Ladies' coats and suits.
D'Andre (ILGWU).	Montclair, Calif.	do.	do.	TA-W-1,933	Do.
D'Mia Fashions (ILGWU).	S. El Monte, Calif.	Mar. 31, 1977	Mar. 22, 1977	TA-W-1,934	Do.
D'Roma Fashions (ILGWU).	Covina, Calif.	do.	do.	TA-W-1,935	Do.
Fisher Dress Co. (ILGWU).	Los Angeles, Calif.	Mar. 29, 1977	Mar. 23, 1977	TA-W-1,936	Ladies dresses and sportswear.
Ford Motor Co., Metuchen Assembly Plant (UAW).	Metuchen, N.J.	Mar. 31, 1977	Mar. 28, 1977	TA-W-1,937	Ford Motor Co. passenger cars.
Ford Motor Co., Dearborn Assembly Plant (UAW).	Dearborn, Mich.	do.	do.	TA-W-1,938	Do.
Ford Motor Co., San Jose Assembly Plant (UAW).	San Jose, Calif.	do.	do.	TA-W-1,939	Do.
General Motors Corp., Assembly Div. (UAW).	Lordstown, Ohio	do.	do.	TA-W-1,940	General Motors passenger cars.
General Motors Corp., Assembly Div. (UAW).	Wilmington, Del.	do.	Feb. 28, 1977	TA-W-1,941	Do.
Jolie'D Coats (ILGWU).	Gardena, Calif.	do.	Mar. 22, 1977	TA-W-1,942	Ladies' coats and suits.
Ruth LeCover (ILGWU).	Los Angeles, Calif.	Mar. 29, 1977	Mar. 23, 1977	TA-W-1,943	Ladies' suits, dresses and sportswear.
Sabrina Coat, Inc. (ILGWU).	S. El Monte, Calif.	Mar. 31, 1977	Mar. 22, 1977	TA-W-1,944	Ladies' coats and suits.

[FR Doc.77-11087 Filed 4-14-77;8:45 am]

[TA-W-1303]

ARCTIC ENTERPRISES, INC. AND ARCTIC DISTRIBUTORS, INC.

Negative Determination Regarding Eligibility To Apply for Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1303: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 29, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers marketing snowmobiles at Arctic Distributors, Inc., Neenah, Wisconsin, a wholly owned subsidiary of Arctic Enterprises, Inc. The investigation was expanded to include Arctic Enterprises, Inc., Thief River Falls, Minnesota, which produces all snowmobiles marketed at the Neenah, Wisconsin facility.

The notice of investigation was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55601). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Arctic Enterprises, Inc., and Arctic Distributors, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation reveals that with respect to Arctic Enterprises, Inc. criterion (1) and criterion (2) have not been met; with respect to Arctic Distributors, Inc. criterion (4) has not been met.

Significant Total or Partial Separations. The average number of production workers at Arctic Enterprises, Inc. increased 11 percent in 1975 compared to 1974 and increased 17 percent in 1976 compared to 1975.

The average number of workers marketing snowmobiles at Arctic Distributors, Inc. declined 7 percent in 1975 compared to 1974 and declined 16 percent in 1976 compared to 1975.

Sales or Production, or Both, Have Decreased Absolutely. Production at Arctic Enterprises, Inc. increased 30 percent in 1975 compared to 1974 and increased 17 percent in 1976 compared to 1975.

Sales of snowmobiles at Arctic Distributors, Inc. declined 22 percent in 1975 compared to 1974 and increased 21 percent in 1976 compared to 1975.

Increased Imports. Imports of snowmobiles declined from 230,400 in 1971 to 41,800 in 1975. Imports decreased from 28,500 snowmobiles in the first three quarters of 1975 to 26,600 snowmobiles in the first three quarters of 1976. Imports as a percentage of production de-

creased from 46.2 percent in 1972 to 12.0 percent in 1974. Imports as a percentage of production increased from 12.0 percent in 1974 to 22.1 percent in 1975 and increased from 27.1 percent in the first three quarters of 1975 to 28.3 percent in the first three quarters of 1976.

Contributed Importantly. Artic Distributors, Inc. markets snowmobiles solely produced by its parent firm, Arctic Enterprises, Inc., Thief River Falls, Minnesota. Production of snowmobiles by Arctic Enterprises increased in 1976 over 1975 as did production related employment at that firm. Arctic Enterprises increased its share of the domestic snowmobile market both in 1975 and in 1976. In order to continue what it considers to be a successful marketing strategy, company officials have made the decision to consolidate its distribution outlets into regional locations. This will result in the closure of Arctic Distributors, Inc. in Neenah, Wisconsin.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with snowmobiles produced at Arctic Enterprises, Thief River Falls, Minnesota did not contribute importantly to the separations of the workers at that firm or Arctic Distributors, Inc., Neenah, Wisconsin.

Signed at Washington, D.C. this 7th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-11124 Filed 4-14-77;8:45 am]

[TA-W-1546]

BELLEVILLE SHOE MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1546: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 4, 1977 in response to a worker petition received on December 20, 1976 which was filed on behalf of workers and former workers producing combat boots and athletic shoes at Belleville Shoe Manufacturing Company, Belleville, Illinois. The investigation revealed that Belleville Shoe did not manufacture athletic shoes.

The Notice of Investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5448). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Belleville Shoe Manufacturing Company, its customers, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separation, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals that Belleville Shoe Manufacturing Company, in Belleville, Illinois produces combat boots specially manufactured to strict military specifications for use by the U.S. Armed Service branches. During the past 3 years, Belleville Shoe Manufacturing Company production consisted of as much as 99 percent combat boots sold to the U.S. Government and about 1 percent men's and boys' shoes.

In accordance with the Defense Appropriations Act regulations, all procurement of supplies, including combat boots, is restricted to those which are manufactured in the United States or its possessions. Furthermore, according to various industry sources, there are no known quantities of imports of combat boots.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that imports like or directly competitive with combat boots produced at the Belleville, Illinois plant of Belleville Shoe Manufacturing Company have not increased as required in Section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C. this 7th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-11128 Filed 4-14-77;8:45 am]

BIG RIVER MFG. CO., ET AL.

Investigations Regarding Certifications of Eligibility To Apply For Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm 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.

Petitioners meeting these eligibility requirements 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. The investigations 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.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations 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 April 25, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 25, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 4th day of April 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: (union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Big River Manufacturing Co. (workers).	Kittanning, Pa....	Apr. 1, 1977	Mar. 26, 1977	TA-W-1,945	Boys' woven shirts and jackets.
Coronet Printing, Inc. (workers).	Fall River, Mass..	Mar. 31, 1977	Mar. 28, 1977	TA-W-1,946	Flock printing.
Earth Shoe Corp. (workers).	Middleboro, Mass	do	Mar. 29, 1977	TA-W-1,947	Earth shoes.
Fedders Automotive & Components Co. (USA).	Buffalo, N.Y.	Apr. 4, 1977	Mar. 30, 1977	TA-W-1,948	Auto radiators, heaters and transmission oil coolers.
H. W. Gossard Co. (workers).	Ishpeming, Mich	do	Mar. 18, 1977	TA-W-1,949	Ladies' undergarments.
Hawaiian Sugar Planters' Association (Co.).	Waipahu, Hawaii	do	Mar. 30, 1977	TA-W-1,950	Administrative, coordination and research of cane sugar.
Do	Hilo, Hawaii	do	do	TA-W-1,951	Do.
Do	Libue, Hawaii	do	do	TA-W-1,952	Do.
Olokele Sugar Co. (ILWU).	Kaumakani, Hawaii.	Feb. 28, 1977	Feb. 28, 1977	TA-W-1,953	Raw sugar.
TRW, Inc. (IUE)	Philadelphia, Pa..	Apr. 1, 1977	Mar. 28, 1977	TA-W-1,954	Carbon composition resistors.
The Vendo Co. (USA)	Kansas City, Mo	do	Mar. 18, 1977	TA-W-1,955	Vending machines.

[FR Doc.77-11088 Filed 4-14-77;8:45 am]

BOSS MFG. CO., ET AL.

Investigations Regarding Certifications of Eligibility To Apply For Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm 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.

Petitioners meeting these eligibility requirements 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. The investigations 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.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations 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 April 25, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 25, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 7th day of April 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: (union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Boss Manufacturing Co. (ACTWU).	Oneida, Tenn	Apr. 7, 1977	Mar. 15, 1977	TA-W-1,956	Cotton and leather work gloves.
Boulet Sportswear (workers).	New York, N.Y..	Apr. 5, 1977	Mar. 31, 1977	TA-W-1,957	Men's sport shirt, slacks, robes, underwear and scarfs.
Cobre Tire Co. (International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers).	Butte, Mont	do	do	TA-W-1,958	Tires for off-road equipment.
Dynamics Corp., Reeves-Hoffman Div. (workers).	McConnellsburg, Pa.	do	do	TA-W-1,959	Electronic quartz crystals for watches.
Fletcher Service Co. (International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers).	Butte, Mont	do	do	TA-W-1,960	Repairing tires for off-the-road equipment.
Wolverine Worldwide, Inc., Frolic Footwear Division (Boot and Shoe Workers Union).	Jonesboro, Ark	do	Mar. 29, 1977	TA-W-1,961	Women's shoes.
J.A.M.K.A. Stichting Co., Inc. (company).	Fitchburg, Mass..	Apr. 26, 1977	Mar. 28, 1977	TA-W-1,962	Doll clothes, sportwear for women, denim skirts for girls.
Lanza of Boston (workers).	Natick, Mass	do	Mar. 31, 1977	TA-W-1,963	
LeSande Shoe Co., Inc. (workers).	Haverhill, Mass	do	Apr. 5, 1977	TA-W-1,964	Women's shoes.
Shelburne Shirt Co. (ACTWU).	Fall River, Mass..	Apr. 7, 1977	Mar. 25, 1977	TA-W-1,965	Men's shirts and ladies' blouses.
Wohl Shoe Co. (workers).	Afton, Mo	Apr. 5, 1977	Mar. 30, 1977	TA-W-1,966	Men's, women's and children's shoes.
Young Brothers, Ltd. (workers).	Honolulu, HI	do	do	TA-W-1,967	Transportation service of pineapples and fertilizer.

[FR Doc.77-11089 Filed 4-14-77;8:45 am]

[TA-W-1009]

GENERAL SHOE CO.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 222 of the Trade Act of 1974 and in accordance with section 223(a) of such Act, on October 29, 1976, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers at the Frankfort, Kentucky plant of General Shoe Company, a Division of GENESCO, Inc., Nashville, Tennessee (TA-W-1009).

The Notice of Certification was published in the FEDERAL REGISTER (41 FR 50040) November 12, 1976. An amended certification was issued January 31, 1977 to include five additional workers who were separated after the termination date because of their required presence to close out the plant. The Notice of Amended Certification was published in the FEDERAL REGISTER (42 FR 8018) February 8, 1977.

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of two former workers at the Frankfort, Kentucky plant of GENESCO. Further investigation revealed that two adidtional workers were engaged in employment related to the production of women's footwear and should have been included in the original certification as eligible to apply for adjustment assistance even if separated after the termination date. The subject workers were omitted from the original certification because they were retained to complete shut down operations.

Conclusion. Based on additional evidence, a review of the entire record and in accordance with the provisions of the Act, I have determined that the following certification is hereby made as follows:

All workers at the Frankfort, Kentucky plant of the General Shoe Company who became totally or partially separated from employment on or after May 26, 1976 and before August 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974 except that the following identified employees of General Shoe Company shall be eligible to apply for adjustment assistance even if they become totally or partially separated on or after August 1, 1976.

1. Danny Anderson, 804 Forest Hill Drive, Frankfort, Kentucky.
2. Floyd Gilbert, 110 Adair, Frankfort, Kentucky.
3. Alvin Aldridge, Route 1, Frankfort, Kentucky.
4. Howard Smith, Route 5, Frankfort, Kentucky.
5. Mac Foster, 130 Locust Street, Frankfort, Kentucky.
6. Harrison Smith, Route 5, Frankfort, Kentucky.
7. Arthur McDaniel, Route 4, Box 1975, Frankfort, Kentucky.
8. Juanita Honaker, 121 Seminole Trail, Frankfort, Kentucky.
9. Catherine McKee, 816 Prince Hall, Frankfort, Kentucky.

Signed at Washington, D.C. this 7th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-11126 Filed 4-14-77;8:45 am]

[TA-W-1418]

LEMONT MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results or TA-W-1418: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 14, 1976 in response to a worker petition received on December 14, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing concrete reinforcing bars, angles and plain rounds at the Lemont, Illinois plant of Lemont Manufacturing Company, a division of Ceco Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 887). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lemont Manufacturing Company, Ceco Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that the fourth criterion has not been met.

Significant Total or Partial Separations. Average weekly employment of production workers increased 2.5 percent in 1974 compared with 1973, decreased 4.3 percent in 1975 compared with 1974 and decreased 10.7 percent in 1976 compared with 1975.

Sales or Production, or Both, Have Decreased Absolutely. Production of concrete reinforcing bar, angles and plain rounds in terms of quantity decreased 6.9 percent in 1974 compared with 1973, decreased 22.9 percent in 1975 compared with 1974 and increased 0.9 percent in 1976 compared with 1975. Production decreased in three of the four quarters in 1976 compared with the respective quarters of 1975.

Increased Imports. Imports of concrete reinforcing bars in terms of net tons decreased 30.4 percent in 1972 compared with 1971, decreased 20.0 percent in 1973 compared with 1972, increased 66.7 percent in 1974 compared with 1973, decreased 70.3 percent in 1975 compared with 1974 and increased 18.2 percent in the first three quarters of 1976 compared with the first three quarters of 1975. The ratio of imports to domestic shipments and consumption increased from 4.4 percent and 4.3 percent, respectively, in the first three quarters of 1975 to 4.8 percent and 4.6 percent, respectively, in the first three quarters of 1976.

Contributed Importantly. Lemont Manufacturing Company is a captive supplier of concrete reinforcing bar, angles and plain rounds for Ceco Corporation. Ceco Corporation, the parent company, is a major construction company. All production at Lemont is scheduled by and produced for Ceco in accordance with the company's requirements. Ceco Corporation relies on its three steelmaking divisions, including Lemont, for virtually all its production of concrete reinforcing bar, angles and plain rounds. In the rare occasion that Ceco purchases reinforcing bar products from sources other than its steelmaking division, these purchases are made only from domestic steel producing sources. Purchases of steel from Lemont by Ceco have generally declined since 1974 due largely to continuing depressed conditions within the construction industry. Producing this steel exclusively for Ceco, production at Lemont has been directly affected by what decreases in construction Ceco has experienced within the industry.

Conclusion. After careful review of the facts obtained in the investigation, it is concluded that imports of articles like or directly competitive with concrete reinforcing bars, angles and plain rounds produced by Lemont Manufacturing Company in Lemont, Illinois have not contributed importantly to the total or partial separations of workers at that plant as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-11122 Filed 4-14-77;8:45 am]

[TA-W-1373]

MARSH VALVE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1373: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing brass valves and castings at the Dunkirk, New York plant of Marsh Valve Company.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 889). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Marsh Valve Co., its customers, the U.S. Department of Commerce, the U.S. International

Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that the first three criteria have been met but criterion (4) has not been met.

Significant Total or Partial Separations. Average annual employment of production workers at Marsh Valve Company declined 49.0 percent in 1975 compared to 1974. Average employment increased 0.8 percent in 1976 compared to 1975. Average employment increased 40.0 percent in the second quarter of 1976, 12.0 percent in the third quarter and 4.2 percent in the fourth quarter compared to the same quarters of 1975.

Sales or Production, or Both, Have Decreased Absolutely. Annual sales by the Marsh Valve Company declined 53.6 percent in quantity in 1975 compared to 1974. Sales increased 2.5 percent in 1976 compared to 1975. Sales declined 15.5 percent and 2.2 percent respectively, in the third and fourth quarters of 1976 compared to the same quarters in 1975.

Increased Imports. Imports of valves and similar devices in terms of value increased each year from $56.5 million dollars in 1971 to $165.1 million in 1975. Imports further increased from $127.6 million in the first nine months of 1975 to $134.2 million in the first nine months of 1976.

The ratio of imports to domestic production increased each year from 1971 to 1975, from 2.4 percent in 1971 to 4.7 percent in 1975. The ratio of imports to production decreased from 4.9 percent in the first nine months of 1975 to 4.5 percent in the first nine months of 1976.

Detailed import data is published for valves by type and composition. Production data using this detail is not available. Imports of brass valves of the type produced by Marsh are included in the category of "valves, hand-operated and check, made of copper, including those of brass."

Imports of valves, hand-operated and check, made of copper, including those of brass increased by 59.6 percent in value from 1971 to 1972. Imports declined 9.6 percent from 1972 to 1973, increased 22.7 percent from 1973 to 1974 and declined 23.4 percent from 1974 to 1975. In the first three quarters of 1976 imports were 52.7 percent higher than during the same period of 1975.

Contributed Importantly. One customer of Marsh purchased all their valves and a substantial amount of their castings. This customer does not purchase any imported valves or castings. This customer used Marsh's products in the hot water heating systems they manufactured. Sales of hot water heating systems are highly dependent upon the construction of new buildings. The slump in the construction industry reduced the demand for hot water heating systems which caused this manufacturer to decrease its purchases of valves and castings from Marsh.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with brass valves and castings produced at the Marsh Valve Company in Dunkirk, New York did not contribute importantly to the total or partial separation of workers at the plant as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-11123 Filed 4-14-77;8:45 am]

[TA-W-1419]

MILTON MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1419: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 14, 1976 in response to a worker petition received on December 14, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing concrete reinforcing bars and plain rounds at the Milton, Pennsylvania plant of Milton Manufacturing Company.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 890). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Milton Manufacturing Company, its customers, the U.S. Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that although criteria (1), (2) and (3) have been met, criterion (4) has not been met.

Milton Manufacturing, a division of the Ceco Corporation, is a new billet steel operation complete with Melt Shop, Bar Mill and a Fabricating Department which are capable of producing approximately 150,000 tons annually of concrete reinforcing bars and steel rounds. Ninety-five percent of Milton's production from year to year is concrete reinforcing bars. Production workers are used interchangeably between both products.

Significant total or partial separations. The average weekly employment of production workers at the Milton, Pennsylvania plant declined 33.2 percent in 1975 compared to 1974 and increased 7.9 percent in 1976 compared to 1975.

Sales or production, or both, have decreased absolutely. Plant sales declined 39.4 percent in 1975 compared to 1974 and increased 0.4 percent in 1976 compared to 1975.

Plant production declined 41.9 percent in 1975 compared to 1974 and increased 6.8 percent in 1976 compared to 1975.

Increased imports. U.S. imports of concrete reinforcing bars were 514.5 thousand net tons in 1971 and declined to 358.2 thousand net tons and 286.4 thousand net tons, respectively, in 1972 and 1973. U.S. imports increased to 477.5 thousand net tons in 1974 before declining to 141.9 thousand net tons in 1975. U.S. imports increased from 121.3 thousand net tons in the first three quarters of 1975 to 143.4 thousand net tons for the like 1976 period.

Contributed importantly. A survey of customers whose purchases of concrete reinforcing bars from Milton Manufacturing Company represented over fifty percent of Milton's sales in 1975 and 1976 indicated that none of these customers have purchased imported reinforcing bars since 1974. All but one customer surveyed stated that they decreased purchases from Milton in 1975 and 1976. The depressed state of the construction industry in New England was the reason most often given by customers of Milton for their decreased purchases of concrete reinforcing bars.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with concrete reinforcing bars produced at the Milton, Pennsylvania plant of the Milton Manufacturing Company have not contributed importantly to the total or partial separations of workers at that plant as required by Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-11129 Filed 4-14-77;8:45 am]

[TA-W-1392]

SOUTHWEST STEEL CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1392: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 15, 1976 in response to a worker petition received on November 15, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing fabricated concrete reinforcing bars at the Houston, Texas plant of Southwest Steel Company, a division of Armco Steel Corporation, Middletown, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 898). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Southwest Steel Company, the U.S. International Trade Commission, the U.S. Department of Commerce, the American Iron and Steel Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision has decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the first (3) criteria have been met, the fourth criterion has not been met.

Significant total or partial separations. Average employment of production workers was unchanged in 1974 compared to 1973, and decreased 5 percent in 1975 compared to 1974. The number of production workers in the fourth quarter of 1975 was unchanged when compared to the like quarter in 1974. Employment in the nine-month period of January-September 1976 increased 33 percent compared to the like period in 1975.

Average weekly hours worked were unchanged in 1974 compared to 1973, and decreased 3 percent in 1975 compared to 1974. Average weekly hours in the nine-month period of January-September 1976 increased 19 percent compared to the like period in 1975.

Sales or production, or both, have decreased absolutely. Sales increased 42 percent in quantity in 1974 compared to 1973, decreased 43 percent in 1975 compared to 1974, then increased 48 percent in the nine-month period of January-September 1976 compared to the like period in 1975.

Production increased 22 percent in quantity in 1974 compared to 1973, decreased 18 percent in 1975 compared to 1974, then increased 55 percent in the nine-month period January-September 1976 compared to the like period in 1975.

Increased imports. Imports of concrete reinforcing bars (the fabrication of these bars is only an additional step in the production process) decreased both absolutely and relative to domestic production in 1972 and 1973 when compared to the previous year. Imports increased both absolutely and relative to domestic production in 1974 compared to 1973 and then decreased both absolutely and relatively in 1975 when compared to 1974. These imports decreased 70 percent from 1974 to 1975 and then increased 18 percent in the first nine months of 1976 when compared to the like period of 1975. The ratio of imports to domestic production decreased from 9.5 percent in 1974 to 3.9 percent in 1975 and then increased from 4.4 percent in the first nine months of 1975 to 4.8 percent in the first nine months of 1976.

Contributed importantly. The Houston Texas concerete reinforcing bar fabricating plant of Southwest Steel Company produces fabricated rebars for sale to general contractors in the Houston area. Notwithstanding an 18 percent increase in imports of mill-length concrete reinforcing bars in the first nine months of 1976 compared to the like period in 1975, sales of the Houston plant increased 48 percent in quantity and production increased 55 percent in quantity during this same period. In this same nine month period average production employment increased 33 percent and average weekly hours of production workers increased 19 percent. Production employment remained unchanged in the fourth quarter of 1975 compared to the fourth quarter of 1974, but average weekly hours increased 9 percent in this same quarter.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that imports like or directly competitive with concrete reinforcing bars (the fabrication of these bars is only an additional step in the production process) produced by the Houston, Texas plant of Southwest Steel Company, a division of Armco Steel Corporation, Middletown, Ohio did not contribute importantly to the total or partial separations of the workers of that plant.

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

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-11121 Filed 4-14-77;8:45 am]

S AND S CHILDREN'S APPAREL CORP.

[TA-W-1300]

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1300: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 22, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing women's and girls' dresses and sportswear at the Brooklyn, New York plant of S and S Children's Apparel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55608). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of S and S Children's Apparel Corporation, manufacturers for whom the subject company produced, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

Significant Total or Partial Separations. Plant employment of production workers increased 14.7 percent in 1975 compared to 1974 and declined 17.9 percent in the first nine months of 1976 compared to the same period in 1975. Production workers at the plant are used interchangeably and are not separately identifiable by product.

Sales or Production, or Both, Have Decreased Absolutely. Production at S and S Children's Apparel equals sales. Total production declined 31.1 percent and 41.7 percent in the second and third quarters of 1976, respectively, compared to the same quarters in 1975.

Production of girls' dresses and women's and girls' blouses and shirts ceased during the first quarter of 1976.

Increased Imports. Imports of woven women's, misses' and children's dresses increased from 870,000 dozens in 1974, to 987,000 dozens in 1975 and from 674,000 dozens in the first nine months of 1975, to 806,000 dozens in the same period in 1976.

Imports of woven women's, misses' and children's slacks and shorts increased from 4.584 million dozens in 1974 to 5.39 million dozens in 1975 and from 3.823 million dozens in the first nine months of 1975, to 5.399 million dozens in the same period in 1976.

Imports of women's, misses' and children's blouses and shirts increased from 20.549 million dozens in 1974, to 24.113 million dozens in 1975 and increased from 19.251 million dozens in the first nine months of 1975, to 24.016 million dozens in the same period in 1976.

Contributed Importantly. S and S Children's Apparel produces under contract from clothing manufacturers. A representative sample of customers of one of those manufacturers revealed that several of these customers reduced purchases from this manufacturer while increasing purchases of imports.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with girls' and women's slacks and shorts, girls' and women's blouses and shirts and girls' dresses produced at the Brooklyn, New York plant of S and S Children's Apparel Corporation contributed importantly to the total or partial separations of the workers engaged in the production of such products at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Brooklyn, New York plant of S and S Children's Apparel Corporation who became totally or partially separated from employment on or after April 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-11125 Filed 4-14-77;8:45 am]

[TA-W-1627]

VULCAN CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In acordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1627; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 31, 1977 in response to a worker petition received on January 27, 1977 which was filed by the Boot and Shoe Workers' Union on behalf of workers and former workers producing wood heels and wedges at the South Charleston, Ohio plant of Vulcan Corporation, Cincinnati, Ohio.

The notice of investigation was published in the FEDERAL REGISTER on March 4, 1977 (42 FR 12499). No hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Vulcan Corporation, the U.S. Department of Commerce, the U.S. Tariff Commission, the International Trade Commission and the American Footwear Industries Association.

In order to make an affirmative determination and issue certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard as to whether the other criteria have been met, criterion (3) has not been met.

Vulcan Corporation is primarily a supplier of lasts, heels and other component parts to several footwear manufacturers in the United States. Wood heels and wedges are produced at the South Charleston, Ohio plant. The plant stopped production in February 1977.

Imports of shoe heels are negligible, having amounted to less than one half of one percent of the domestic market in recent years.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with wood heels and wedges produced at the South Charleston, Ohio plant of Vulcan Corporation, Cincinnati, Ohio have not increased as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of April 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-11127 Filed 4-14-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 12, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice, through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

ENVIRONMENTAL PROTECTION AGENCY

Reporting Chemical Substances for TSCA Inventory, single-time, business firms, Ellette, C. A. 395-5867.

GENERAL SERVICES ADMINISTRATION

State Agency Monthly Donation Report of Surplus Personal Property, GSA-3040, monthly, State Agencies, Warren Topelius, 395-5872.

DEPARTMENT OF AGRICULTURE

Economic Research Service, Survey of Banks in Wheat-Livestock Drought Areas, single-time, banks in wheat-livestock drought areas, Lowry, R. L., 395-3772.

Agricultural Stabilization and Conservation Service:

1975-1977 Rice Program Regulations, on occasion, farmers, Warren Topelius, 395-5872.

1975–1977 Feed Grain Program Regulations, on occasion, farmers, Lowry, R. L., 395–3772.

ASCS–516–Feed Grain, Rice Wheat, Upland Cotton Program, ASCS–516, on occasion, farmers, Lowry, R. L., 395–3772.

1975–1977 Wheat Program Regulations, on occasion, farmers, Lowry, R.L., 395–3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:

Black Leaders' Attitudes Toward the Desirability of Black Students Entering and Completing Vocational Education Programs, OE–544, single time, black leaders, Kathy Wallman, 395–6140.

Application for Federal Assistance (Nonconstruction Programs)—Education for the Handicapped—Preschool Incentive Grant, OE–9055–1, annually, SEA's, Budget Review Division, Lowry, R. L., 395–4775.

DEPARTMENT OF THE TREASURY

Departmental and other, Electrical and Electronic Industry Survey, single time, business firms, Gaylord Worden, 395–4730.

DEPARTMENT OF TRANSPORTATION

Departmental and other, Survey of the Attitudes of Intercity Automobile Travelers Toward Intercity Transportation Alternatives, single time, households having adult intercity auto travelers, Strasser, A., 395–5867.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Study to Assess and Compare Type A Lunches with Alternative Subsidized Lunches Among High School Students, single time, high school students, food service employees and managers, Lowry, R. L., 395–3772.

Rural Electrification Administration, Financial Forecast—Electric Distribution Systems, REA 325A, on occasion, REA electric borrowers, Tracey Cole, 395–5870.

DEPARTMENT OF DEFENSE

Department of the Army (excluding Defense Civil Preparedness Agency), Great Lakes Shoreline Property Damage, on occasion, shoreland property owners, Maria Gonzalez, 395–6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Student Application for Federally Insured Loan, OE 1154, on occasion, borrowers, schools, lenders, Lowry, R. L., 395–3772.

EXTENSIONS

DEPARTMENT OF DEFENSE

Department of the Navy, Acceptance/Declination, NDW–USNA, on occasion, candidate's for appointment to USNA, Warren Topelius, 395–5872.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Cost of Handling Mortgages Insured Under Section 235, annually, members of the mortgage banking industry, Housing, Veterans and Labor Division, 395–3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–11227 Filed 4–14–77;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 April 11, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

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Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, Odometer Complaint Form, HS–387, on occasion, individuals with odometer complaints, Tracey Cole, 395–5870.

REVISIONS

VETERANS ADMINISTRATION

Employment Questionnaire, 21–4140, on occasion, disabled veterans, Caywood, D.P., 395–3443.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Acreage and Production Survey, annually, farmers, Gaylord Worden and Maria Gonzalez, 395–4730.

DEPARTMENT OF THE TREASURY

Bureau of Customs, Certificate of Registration, CF–4455, on occasion, travellers, tourists, and salespersons, Warren Topelius, 395–587.

EXTENSIONS

TENNESSEE VALLEY AUTHORITY

Electric Sales Statistics, TVA–6157, monthly, electric utilities, Ellett, C. A., 395–5867.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, application for mortgage insurance—sales type, FHA–3202, on occasion, business firms, Housing, Veterans, and Labor Division, 395–3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–11228 Filed 4–14–77;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 April 8, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed

NEW FORMS

WATER RESOURCES COUNCIL

Request for assistance under title III of the Water Resources Planning Act, Pub. L. 89–80, annually, State Planning Offices, Budget Review Division, Lowry, R.L. 395–4775

REVISIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Rice Production and Farm Stocks, other (see SF–831), rice farmers, Gaylord Worden, 395–4730.

Economic Research Service, Tractor Power Technology Survey, single-time, farm operators, tractor experts, Gaylord Worden, 395–4730.

Forest Service, Experience Questionnaire—Contractor, 6300–27, on occasion, construction and service contractors, Warren Topelius, 395–5872.

DEPARTMENT OF COMMERCE

Bureau of Census, cotton, manmade fibers, woolen and worsted fabrics (production, stocks, and unfilled orders), M22A, monthly, producers of broadwoven fabrics, C. Louis Kincannon, 395–3211.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, request for correction of earnings record, SSA–7008, on occasion, individual W/E's, Human Resources Division, 395–3532.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service, report of acreage and marketing of peanuts to non-established buyers, MQ–98–1, and MQ–98, annually, producers selling peanuts, Lowry, R. L. 395–3772.

Statistical Reporting Service, Annual Pesticide Survey, annually, sample of farmers in Minnesota, Gaylord Worden, 395–4730.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, Big Game Fishing Log, 88–904, on occasion, recreational fishermen and boat captains, Maria Gonzalez, 395–6132.

Bureau of Census, Housing Vacancy Survey and Housing Vacancy Reinterview Survey, HVS–1 and HVS–1(R), monthly, vacant living quarters in monthly CPS sample, Larry Haber, 395–5631.

DEPARTMENT OF JUSTICE

Departmental and other:

National Crime Survey, basic screen questionnaires; crime incident reports and control card, NCS–1, NCS–2, NCS–3, NCS–

NCS-6, NCS-500, NCS-500A, NCS-501, other (see SF-83), households in 376 PSU's commercial establishments, George Hall, 395-6140.

National Crime Survey, basic screen questionnaires, crime incident reports and control card, CVS-100, CVS-101, monthly, households in 376 PSU's commerical establishments, George Hall, 395-6140.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, Highway Safety Improvement Program, annually, State Highway Agencies, American Samoa, Guam, Virgin Islands, Economics and General Government Division, Tracey Cole, 395-3451.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-11229 Filed 4-14-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

ADVISORY COMMITTEE ON CORPORATE DISCLOSURE

Meeting

This is to give notice pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I 10(a), that the Advisory Committee on Corporate Disclosure will conduct an open meeting on May 18 and 19 at 500 North Capitol Street, Washington, D.C. 20549 in Room 776 beginning at 10 a.m.

The summarized agenda for the meeting is as follows:

1. Discussion of Recommendations Developed from the Case-Study on Corporate Disclosure;
2. Conclusion of Discussion of Recommendation Concerning Materiality Carried Over from December Meeting;
3. Discussion of Additional Recommendations Relating to Accounting Matters;
4. Any Other Matters as may be Brought Before the Committee.

Further information may be obtained from Mary E. T. Beach, Staff Director, Advisory Committee on Corporate Disclosures, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 7, 1977.

[FR Doc.77-11057 Filed 4-14-77;8:45 am]

[File No. 500-1]

CHEMTRUST INDUSTRIES CORP.

Suspension of Trading

APRIL 7, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Chemtrust Industries Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, Pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:50 a.m. e.s.t. on April 7, 1977 through April 16, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-11047 Filed 4-14-77;8:45 am]

[Rel. No. 70-5998; 70-5998]

INDIANA & MICHIGAN ELECTRIC CO. AND AMERICAN ELECTRIC POWER COMPANY, INC.

Proposed Issue and Sale of Preferred Stock at Competitive Bidding and Capital Contribution From Holding Company to Subsidiary

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), 2101 Spy Run, Fort Wayne, Indiana 46801, a registered holding company, and Indiana & Michigan Electric Power Company ("I&M"), 2 Broadway, New York, New York 1004, an electric utility subsidiary thereof, have filed an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b) and 12 of the Act and Rules 42(a), 45, and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

I&M proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to 1,600,000 shares of a new series of its cumulative preferred stock, par value $25 per share. The price to be received by I&M shall be $25 per share, which shall also be the price at which the preferred stock shall be initially offered to the public. The dividend rate and the amount per share to be paid by I&M as compensation to the purchasers of the preferred stock will be determined by competitive bidding. None of the shares of the preferred stock may be redeemed during the five year period following the date of its issuance if such redemption is for the purpose of refunding such stock, directly or indirectly, through the incurring of debt or the issuance of stock ranking equally with or prior to the preferred stock at an effective interest cost or effective dividend cost less than the dividend cost to I&M of the preferred stock.

The terms of the preferred stock may provide for a cumulative sinking fund pursuant to which I&M would retire at $25 per share, commencing no earlier than 5 years after sale, not more than 5 percent annually of the shares initially issued, with the non-cumulative option on any sinking fund date of redeeming at $25 per share an additional like number of shares, and with the option to credit against any sinking fund requirement the shares of preferred stock theretofore purchased or otherwise acquired by I&M.

It is stated that I&M will decide upon the necessity for a sinking fund at a subsequent date and notify prospective bidders of its decision by telegram reasonably in advance of, but not less than 72 hours prior to, the bidding date.

AEP proposes, prior to or concurrently with the sale of the preferred stock, to make one or more cash capital contributions aggregating $39,000,000 to I&M. The making of $19,000,000 for cash capital contributions has been previously authorized by this Commission (HCAR No. 19597). Authorization is sought for the remaining $20,000,000 of cash capital contributions. It is stated that the preferred stock will not be issued and sold unless, prior to such sale, I&M shall have received from AEP one or more cash capital contributions aggregating $39,000,000.

It is proposed that the proceeds from the sale of the preferred stock will be applied, within ninety days after such sale, to the payment of a like principal amount of unsecured short-term debt of I&M. As of March 16, 1977, I&M had $157,984,000 principal amount of unsecured short-term debt outstanding, and it is anticipated that at the time of sale of the preferred stock, and following the receipt of the cash capital contributions, not less than $100,000,000 principal amount of unsecured short-term debt will be outstanding. It is proposed that the proceeds from the cash capital contribution or contributions from AEP will be applied by I&M, together with other funds available to it, to the payment of unsecured short-term debt and for construction. I&M states that its construction program for 1977 is estimated at $143,750,000 (exclusive of construction costs of approximately $85,200,000 of its generating subsidiary).

It is stated that the Public Service Commission of Indiana and the Michigan Public Service Commission have jurisdiction over the proposed transactions and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment.

Notice is further given that any interested person may, not later than May 4, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request.

At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided

in Rule 23 of the general rules and regulations promulgated under the Act or the Commission may take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-11049 Filed 4-14-77;8:45 am]

[File No. 500-1]

INTERNATIONAL SYSTEMS & CONTROLS CORP.

Suspension of Trading

APRIL 7, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of International Systems & Controls Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9 a.m., e.s.t. on April 7, 1977 through April 16, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-11048 Filed 4-14-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

GRAIN ORIENTED SILICON ELECTRICAL STEEL FROM ITALY

Preliminary Countervailing Duty Determination

AGENCY: United States Treasury Department.

ACTION: Preliminary countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Italy has not given benefits which are considered to be bounties or grants under the countervailing duty statute (19 U.S.C. 1303), on the manufacture or exportation of grain oriented silicon electrical steel. However additional inquiries will be made regarding certain aspects of this case before a final determination is made. That determination is required by October 1, 1977. Interested parties are invited to comment by May 2, 1977, on this action.

EFFECTIVE DATE: This notice will be effective on April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

William T. Trujillo, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, (202-566-5492).

On November 11, 1976, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (41 FR 49922). The notice stated that a petition in proper form was received on October 1, 1976, alleging that payments or bestowals conferred by the Government of Italy upon the manufacture, production, or exportation of grain oriented silicon electrical steel by Terni Societa per l'Industria e l'Electtricita, S.p.A. (TERNI) constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in the notice as "the Act").

Grain oriented silicon electrical steel is provided for in the Tariff Schedules of the United States under item numbers 608.88 and 609.07.

On the basis of an investigation conducted pursuant to § 159.47(c), Customs Regulations (19 CFR 159.47(c)), it preliminarily has been determined that benefits have not been received by TERNI which constitute bounties or grants within the meaning of the Act. The alleged benefits preliminarily determined not to constitute bounties or grants based on the information available and analysis to date include:

1. *Stock purchases by the holding company.* Finsider, Terni's parent, appears to have made purchases of Terni stock at depressed values from its own reserves, accumulated through profitable operation of various enterprises, rather than public resources. This conclusion is based on information provided by the Italian Government which indicates that the Government holding company IRI, has not transferred capital to Finsider in the form of stock purchases since before 1965. Thus it appears that the funds used by Finsider to increase its share holdings in Terni from 70 percent to 98 percent during the last two years were not provided either directly or indirectly by the Government of Italy. However further analysis will be made as to the sources of Finsider's capital, its profits and losses and those of Terni over the years and especially during 1975 and 1976 when losses were sustained. Further inquiry will be made regarding Government participation in investments and other financial decisions of Terni and Finsider.

2. *Preferential financing and credit availability.* The information presently available indicates that Terni's long term and short term credit bears interest rates at least equal to those charged by private banks, which hold a portion of the company's debt. It also reveals that rates charged by the state participation banks, including "ILIC", a Finsider subsidiary, have been consistently above those imposed by private banks. While Terni, may have enjoyed a greater access to credit than might normally be expected for a corporation in Italy, that alone is not considered to be a bounty or grant in the absence of information to the effect that Terni benefited from preferential or favorable loan terms.

3. *Rebates of taxes under Italian Law 639.* The relevant provision of this law grants rebates to "Manufactured products obtained from sheets, coils or pipes in either iron or steel which are neither referred to nor included elsewhere." Grain oriented silicon steel, exported in its raw form, is not a manufactured product within the meaning of Italian Law 639 and, accordingly, is not entitled to the rebate under that law.

4. *Electricity subsidies.* Alleged below-cost electricity rates charged Terni by the State-owned electrical corporation, ENEL, reflect a compensation agreement between Terni and ENEL, which was entered into in 1963 when ENEL assumed ownership of Terni's electrical generating facilities. Prior to that time Terni maintained its own power facilities and consumed electricity at intercompany transfer rates. As compensation for being required to yield ownership of its power facility, Terni is charged rates reflecting its own intercompany transfer price in 1961 for a period of 30 years ending 1992. Escalator clauses for increased consumption and overhead costs are contained in the agreement. Accordingly, it appears that the reduced power rates to Terni are reflective of a form of compensation for a surrendered asset as distinguished from government assistance. However, further inquiry on this subject will be made, to include questions as to whether ENEL was subsequently required to undertake significant capital investment for the expansion of power facilities to meet increased power needs stemming from recent increases in productive capacity. Terni is exempted from the electrical surcharge imposed by the Italian Government to offset sudden fuel cost increases because it falls within a class of manufacturers who produce at least 70 percent of the power they consume. By an Italian court ruling, Terni qualified for this exemption since the hydroelectric power supplied by the facility Terni formerly owned met this test. In view of the purpose of the surcharge, and the general exemption for which Terni qualifies this does not constitute a bounty or grant.

5. *Privileged availability and preferential rate for scrap.* The information available indicates that CPR, the scrap company which is part of the Finsider Group, makes sales to Terni of scrap it purchases at market prices plus commission. Sales from its own stocks to Terni are made at prices CPR pays. It appears that scrap purchases by Terni from CPR represent no subsidy in that the sales represent an intercompany transfer price at no apparent loss to the supplier.

6. *Preferential shipping rates.* Terni has never used the Finsider owned shipping line, Sidemar, for shipments of grain oriented silicon steel to the United States since shipments have been too small to justify the use of the larger Sidemar carriers. The information presently available indicates that Sidemar is not used by Terni for the shipment of raw materials to Terni's facilities. Further inquiry will be made to determine whether Terni benefits indirectly from potential favorable shipping rates.

7. *Preferential export financing to foreign purchasers under Italian Law 131.* Terni has never utilized loans under this law for shipments to the United States.

8. *Preferential rates of insurance provided by the State.* Terni has never received benefits under insurance from any state participation company.

A final decision in this case is required on or before October 1, 1977.

Before a final determination is made, consideration will be given to any relevant data, views or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be received by his office on or before May 2, 1977.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

VERNON D. ACREE,
Commissioner of Customs.

Approved: April 6, 1977.

JOHN H. HARPER,
Assistant Secretary of the Treasury.

[FR Doc.77-11033 Filed 4-14-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 368]

ASSIGNMENT OF HEARINGS

APRIL 12, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 136343 Sub-No. 92, Milton Transportation, Inc., now assigned April 19, 1977, at New York, N.Y. is postponed indefinitely.

MC-F-12411, Noel Transfer, Inc., Control—Dakota Express, Inc., now assigned May 2, 1977, at Chicago, Ill., will be held in room 349, 230 South Dearborn St.

MC-F-12312, and MC 108461 Sub-No. 123, Whitfield Transportation, Inc., Purchase (Portion)—Lee Hawkes Transfer; and Whitfield Transportation Inc., Control and Merger—Miller Bros. Truck Line, now assigned May 16, 1977, at Salt Lake City, Utah, will be held in room 2437, Federal Bldg., 125 South State St.

MC 128270 Sub-No. 15, Redleis Interstate, Inc., now assigned May 5, 1977, at Chicago, Ill., will be held in room 204, Everett McKinley Dirksen Bldg., 219 South Dearborn St.

MC 118989 Sub-No. 145, Container Transit, Inc., now assigned May 9, 1977, at Chicago, Ill., will be held in room 204, Everett McKinley Dirksen Bldg., 219 South Dearborn St.

MC 139021 Sub-No. 4, Interstate Auto Transport, Inc., now assigned May 11, 1977, at Chicago, Ill., will be held in room 204, Everett McKinley Dirksen Bldg., 219 South Dearborn St.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-11115 Filed 4-14-77;8:45 am]

[Exemption No. 137]

SOUTHERN PACIFIC TRANSPORTATION CO., ET AL.

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To: All Railroads. *It appearing*, That there are substantial shortages of plain gondolas on the lines of the Southern Pacific Transportation Company (SP); that there is an available supply of such cars on the National Railways of Mexico (NDM); that the NDM has consented to use by the SP of certain of these cars; that the SP has secured clearance from the United States Customs Service for use of these cars provided they are interchanged from and to the NDM exclusively by the SP; and that use of these cars by the SP will substantially relieve gondola shortages on the SP.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondolas owned by the National Railways of Mexico (NDM) identified herein may be used by the Southern Pacific Transportation Company (SP) without regard to the requirements of Car Service Rules 1 and 2.

It is further ordered, That NDM plain gondolas identified herein available empty on lines other than the SP must be returned to the SP either loaded or empty and may not be returned to the NDM by any line other than the SP, regardless of the requirements of Car Service Rules 1 and 2; and

It is further ordered, That this exemption is applicable to freight cars owned by the NDM identified as follows:

NDM 55000-56199

Effective April 7, 1977, and continuing in effect until further order of the Commission.

Issued at Washington, D.C., April 7, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-11118 Filed 4-14-77;8:45 am]

[Fourth Revised Exemption No. 133]

MISSOURI PACIFIC RAILROAD CO., ET AL.

Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To: All Railroads. *It appearing*, That there are substantial shortages of fifty-foot plain boxcars on the lines of the Missouri Pacific Railroad Company (MP); that there is an available supply of such cars on the National Railways of Mexico (NDM); that the NDM has consented to use by the MP of certain of these cars; and the MP has secured clearance from the United States Customs Service for use of these cars provided they are interchanged from and to the NDM exclusively by the MP; and that use of these cars by the MP will substantially relieve boxcar shortages on the MP.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars owned by the National Railways of Mexico (NDM) identified herein may be used by the Missouri Pacific Railroad Company (MP) without regard to the requirements of Car Service Rules 1 and 2.

It is further ordered, That NDM plain boxcars identified herein available empty on lines other than the MP must be returned to the MP either loaded or empty and may not be returned to the NDM by any line other than the MP, regardless of the requirements of Car Service Rules 1 and 2; and

It is further ordered, That this exemption is applicable to freight cars owned by the NDM identified in Appendix A hereto.

Effective April 5, 1977, and continuing in effect until further order of the Commission.

Issued at Washington, D.C., April 5, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

APPENDIX A TO
FOURTH REVISED EXEMPTION NO. 133
REPORTING MARKS NDM

100004	100011	100020	100023	100024	100027	100030	100041	100042	100049
100050	100055	100064	100067	100068	100077	100078	100081	100085	100090
100091	100098	100103	100109	100113	100115	100117	100118	100121	100126
100127	100129	100133	100143	100146	100149	100152	100156	100157	100158
100162	100167	100177	100182	100183	100184	100189	100190	100196	100199
100200	100204	100205	100207	100220	100222	100232	100234	100235	100236
100238	100241	100242	100255	100260	100263	100273	100278	100283	100292
100299	100301	100302	100305	100313	100315	100317	100322	100324	100327
100331	100334	100336	100339	100342	100345	100355	100359	100361	100362
100363	100365	100367	100369	100371	100377	100383	100389	100391	100396
100397	100398	100400	100403	100406	100407	100408	100410	100412	100417
100426	100427	100430	100433	100437	100445	100446	100448	100449	100453
100458	100459	100466	100471	100474	100477	100478	100481	100482	100483
100486	100488	100491	100492	100494	100498	100499	100501	100505	100506
100515	100520	100526	100530	100532	100534	100536	100539	100541	100547
100548	100551	100553	100557	100563	100570	100575	100580	100583	100584
100586	100592	100595	100598	100599	100600	100601	100603	100606	100608
100618	100619	100625	100628	100634	100636	100643	100648	100649	100651
100655	100656	100657	100660	100662	100670	100672	100674	100681	100685
100692	100693	100698	100699	100703	100704	100706	100708	100710	100715
100719	100720	100721	100726	100728	100729	100732	100738	100740	100744
100750	100753	100763	100766	100773	100778	100780	100781	100784	100786
100790	100801	100805	100807	100814	100819	100823	100829	100831	100833
100836	100849	100850	100853	100856	100859	100861	100867	100869	100870
100879	100884	100891	100894	100897	100900	100902	100907	100909	100911
100916	100925	100927	100930	100932	100936	100941	100945	100949	100952
100953	100955	100962	100967	100970	100973	100974	100996	100998	100999
101007	101009	101028	101029	101030	101035	101039	101040	101044	101047
101055	101056	101065	101066	101067	101072	101073	101077	101081	101084
101090	101096	101098	101101	101110	101131	101136	101141	101143	101144
101150	101154	101163	101164	101166	101172	101178	101179	101181	101182
101185	101186	101187	101194	101195	101196	101198	101199	101204	101206
101210	101211	101213	101214	101220	101223	101224	101228	101232	101233
101234	101235	101236	101238	101241	101249	101251	101258	101261	101265
101266	101270	101276	101277	101280	101282	101284	101288	101289	101291
101295	101301	101305	101306	101309	101313	101314	101316	101317	101326
101328	101329	101333	101336	101340	101341	101343	101346	101354	101359
101360	101368	101369	101372	101376	101377	101381	101383	101388	101394
101397	101402	101403	101404	101405	101409	101412	101416	101418	101422
101425	101427	101432	101436	101440	101443	101447	101451	101452	101453
101455	101464	101467	101468	101471	101477	101494	101497	101498	101501
101502	101505	101507	101509	101510	101513	101514	101516	101519	101520
101521	101523	101565	101570	101571	101576	101578	101588	101589	101590
101598	101600	101603	101605	101608	101609	101613	101619	101621	101622
101625	101635	101636	101641	101642	101643	101652	101657	101659	101661
101665	101672	101675	101681	101682	101686	101694	101695	101697	101699
101704	101707	101708	101711	101712	101719	101721	101727	101732	101733
101734	101735	101736	101739	101745	101769	101772	101773	101779	101794
101797	101798	101800	101801	101807	101808	101817	101824	101827	101828
101830	101833	101840	101847	101849	101850	101853	101858	101864	101865
101866	101874	101878	101884	101885	101886	101888	101889	101890	101893
101902	101911	101913	101917	101919	101921	101926	101927	101928	101931

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TOTAL=0955

[FR Doc.77-11119 Filed 4-14-77;8:45 am]

[Notice No. 150]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 15, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77071. By application filed April 6, 1977, SEA TRUCK, INC., 4055 Hubbard Street, Emeryville, CA 94608, seeks temporary authority to transfer the operating rights of Busy Bee Freight Lines, Inc., P.O. Box 3364, Modesto, CA 95353, under section 210a(b). The transfer to Busy Bee Freight Lines, Inc., of the operating rights of Sea Truck, Inc., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-11117 Filed 4-14-77;8:45 am]

[Notice No. 151]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 15, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77074. By application filed April 7, 1977, GEORGE HALLDEN SONS, CO., 313 Wood Street, Youngstown, OH 44503, seeks temporary authority to transfer the operating rights of The Z. L. Travis Co., Old State Rt. No. 7, Pottery Avenue, Steubenville, OH 44503, under section 210a(b). The transfer to George Hallden Sons, Co., of the operating rights of The Z. L. Travis Co., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc 77-11116 Filed 4-14-77;8:45 am]

[I.C.C. Order No. 27-A under Service Order No. 1252]

CONSOLIDATED RAIL CORP.

Rerouting Traffic

Upon further consideration of I.C.C. Order No. 27 (Consolidated Rail Corporation) (42 FR 18173, Apr. 15, 1977) and good cause appearing therefor:

It is ordered, That I.C.C. Order No. 27 be, and it is hereby, vacated and set aside.

It is further ordered, That this order 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 it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 5, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent

[FR Doc.77-10993 Filed 4-14-77;8:45 am]

[Volume No. 2]

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

Correction

In FR Doc. 77-7760, appearing at page 14951 in the issue of Thursday, March 17, 1977, on page 14952, in the first column, the second complete paragraph which now begins "No. MC 11316" should be changed to begin "No. MC 113166".

[Vol. No. 9]

PETITIONS FOR MODIFICATION, INTERPRETATION OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

Correction

In FR Doc. 77-8653, appearing at page 16028 in the issue of Thursday, March 24, 1977, make the following changes:

1. On page 16037, in the first column, the first complete paragraph, the first line should be changed to read: "No. MC 126612 (Sub-No. 8), filed";

2. On page 16038, in the first column, the second complete paragraph, the first line should be changed to read: "No. MC 134477 Sub-No. 143), filed".

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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1

AGENCY HOLDING THE MEETING: National Commission on Electronic Fund Transfers.

The National Commission on Electronic Fund Transfers' Suppliers Committee will meet on Tuesday, May 3, Wednesday, May 4 and Thursday, May 5 at the Annapolis Hilton Inn, Annapolis, Maryland beginning at 9 a.m. each day. These meetings will be held to discuss the ongoing work of the committee in the standards and security areas as well as to approve a discussion paper on the structure of competition in the EFT suppliers market for Commission consideration and public release.

The meetings are open to the public on a first-call basis to the extent that space permits. Any person interested in attending should first call Ms. Janet Miller at 202-634-1746 to check on the availability of space.

Dated: April 12, 1977.

JAMES O. HOWARD, JR.,
General Counsel.

[S-161-77 Filed 4-12-77;2:46 pm]

2

AGENCY HOLDING THE MEETING: Federal Power Commission.

TIME AND DATE: 2 p.m., April 19, 1977.

PLACE: 825 North Capitol Street, Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(Agenda).

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, 202-275-4166.

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information Room 1000.

POWER AGENDA, 758GTH MEETING—APRIL 19, 1977

REGULAR MEETING—PART I (2 P.M.)

P-1—Docket No. ER77-217, Central Maine Power Company.
P-2—Docket No. ER76-211, Florida Power & Light Company.
P-3—Docket No. E-8242, Public Service Company of Oklahoma.
P-4—Docket No. ER76-848, Montana Power Company.
P-5—Docket No. E-8615, Louisiana Power and Light Company.
P-6—Docket No. E-9579, Idaho Power Company.
P-7—Project No. 2146, Alabama Power Company.

MISCELLANEOUS AGENDA, 758GTH MEETING—APRIL 19, 1977

REGULAR MEETING—PART I

M-1—Docket No. RM77- ,residential electric bill data for United States Bureau of Labor Statistics FPC Form No. 3-P.
M-2—Docket No. RM77- , change in procedure concerning application under Part I of the Federal Power Act.

POWER AGENDA, 758GTH MEETING—APRIL 19, 1977

REGULAR MEETING—PART II

CP-1—Docket No. ER77-256, Illinois Power Company.
CP-2—Docket No. ER77-261, Northern States Power Company of Minnesota.
CP-3—Docket No. ER77-91, Arkansas-Missouri Power Company.
CP—4—Docket No. ER77-197, Florida Power Corporation.
CP-5—Project No. 2436, New York State Electric and Gas Corporation.
CP-6—Project No. 2443, Westvaco Corporation.
CP-7—Project No. 2640, Kansas City Star Company.
CP-8—Docket Nos. ER77-97 and ER77-75, New England Power Company.

MISCELLANEOUS AGENDA, 758GTH MEETING—APRIL 19, 1977

REGULAR MEETING—PART II

CM-1 Southwestern Electric Power Company.
CM-2 Commission minutes.

KENNETH F. PLUMB,
Secretary.

[S-160-77 Filed 4-13-77;1:29 pm]

3

AGENCY HOLDING THE MEETING: Federal Reserve System.

On Wednesday, April 20, 1977, at 12 noon a meeting of the Board of Governors of the Federal Reserve System will be held at the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C., to consider the following items of official Board business:

(1) Amendments to the Federal Reserve System's retirement, thrift and long-term disability income plan. This matter was originally scheduled for a meeting on March 23, 1977.

(2) A possible amendment to the Board's rules of Employee Responsibilities and Conduct with respect to filing statements of employment and financial interests. This matter was originally scheduled for a meeting on April 8, 1977.

(3) Any agenda items carried forward from a previously announced closed meeting.

This meeting will be closed to public observations because the items fall under exemptions contained in the Government in the Sunshine Act (5 U.S.C. 552 b(c)). Information with regard to this meeting may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at 202-452-3204.

Board of Governors of the Federal Reserve System, April 12, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-158-77 Filed 4-12-77;1:09 pm]

4

AGENCY HOLDING THE MEETING: Commission on Federal Paperwork.

Notice is hereby given to the tenth regular meeting of the Commission on Federal Paperwork to be held on April 28, 1977, in Rayburn Bldg., Room 2203, Capitol, Washington, D.C. The meeting will continue on April 29, 1977, if necessary.

The meeting will begin at 9:00 a.m. and will continue until approximately 12:00 noon. The meetings are open to the public. The following topics will be discussed: Equal Employment Opportunity, Health, Small Business Loans, Social Services Delivery and Energy.

The Commission also will review progress on approved projects, staff proposals for future projects, and proposed Commission positions on specific paperwork problems.

Anyone wishing to attend the meetings is invited. For further details, contact the Commission on Federal Paperwork, Room 2000, 1111 20th Street NW., Wash-

ington, D.C. 20582, telephone 202–653–5400.

FRANK HORTON,
Chairman.

[S–153–77 Filed 4–12–77;10:46 am]

5

AGENCY HOLDING THE MEETING: Occupational Safety and Health Review Commission.

TIME AND DATE: 2:30 p.m., April 18, 1977.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public: 1. Proposed revisions in the Commission's rules of procedure.

Portions closed to the public: 2. Specific cases in the Commission adjudication process. This portion is subject to being closed by a vote taken at the beginning of the portion. Otherwise, it will remain open.

CONTACT PERSONS FOR MORE INFORMATION:

Mrs. Nori Heuberger or Ms. Lottie Richardson (202–634–7970).

For the Commission.

Dated: April 11, 1977.

PAUL R. WALLACE,
Counsel to the Commission.

[S–152–77 Filed 4–12–77;9:40 am]

6

AGENCY HOLDING THE MEETING: Federal Home Loan Mortgage Corporation.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol 42, No. 69, Page 18921, Monday, April 11, 1977.

CONTACT PERSON FOR MORE INFORMATION: Henry L. Judy (202–624–7107).

CHANGES IN THE MEETING: In addition to the items previously listed, the Board of Directors will also consider the Appointment of Advisory Committee Member, No. 12, April 12, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: April 14, 1977, 2:30 p.m.

RONALD A. SNIDER,
Assistant Secretary.

[S–162–77 Filed 4–12–77;3:42 pm]

7

AGENCY HOLDING THE MEETING: National Science Board.

The National Science Board, the policy-making body of the National Science Foundation, will meet on Thursday–Friday, April 21–22, 1977, in Room 540, 1800 G Street NW. Washington, D.C. 20550. Much of this meeting will be open to the public in keeping with the Government in the Sunshine Act. Attached is an agenda for the meeting. As indicated the session of the meeting that will be open to the public is scheduled for Thursday, April 21, from 1:00 to 6:00 p.m. Should an additional open session be necessary to complete the open session agenda, that session will be held about 12:30 p.m., Friday, April 22.

The agenda also indicates the subjects to be discussed in both open and closed sessions.

Requests for information on the items may be directed to the Office of the National Science Board, Washington, D.C., which may be reached on 202–632–5840. If the person receiving your call is unable to answer your question, please ask for Miss Vernice Anderson, Executive Secretary, National Science Board.

AGENDA—189TH MEETING, NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, WASHINGTON, D.C., APRIL 21–22, 1977

THURSDAY—APRIL 21

Open Session

1. Program Review—Exploratory Research and Systems Analysis.
2. Report of Chairmen:
   (a) Advisory Committee for Research Applications.
   (b) Science Applications Task Force.
   (c) Advisory Committee for Research.
3. Minutes—188th Meeting.
4. Chairman's Report.
5. Director's Report.

Recess

6. Programs, Report and Discussion Items:
   (a) Biological, Behavioral, and Social Sciences—Environmental Biology; Academy of Natural Sciences, Philadelphia, "The River Continuum: Strategy of Biological Systems for Maintaining a Quasi-Equilibrium of Energy Flow."
   (b) Research Applications—Intergovernmental Science and Public Technology; State Science, Engineering, and Technology Program.
7. Board Committees—Reports on Meetings.
8. Advisory Committees:
   (a) Reports on Meetings.
   (b) Board Representation at Future Meetings.
9. Annual Reviews of National Research Centers—Board Representation at Future Reviews.
10. Reports on Reviews of NSF Projects and Centers.
11. Other Business.
12. Next Meetings:
   (a) National Science Board: Twenty-seventh Annual (190th) Meeting—May 19–20.
   (b) NSB Committees:
      (1) Executive Committee; (2) Planning and Policy Committee; (3) Programs Committee; (4) Committee on Mechanisms for Improved Policy Formulation and External Communications.
   (c) Program Review.

FRIDAY—APRIL 22, 8:30 A.M.–12:30 P.M.

Closed Session

A. Minutes—Closed Session—188th Meeting.
B. Science Indicators—1976.
C. Alan T. Waterman Award.
D. Committee Reports:
   (1) Committees for meetings with high Government officials on proposed legislative initiatives.
   2. Ad Hoc Committee on NSF Staff and NSB Nominees.
   3. Planning and Policy Committee (Report on Planning Environment Review).
   4. Ad hoc committees on proposed legislative initiatives.
E. Grants and Contracts—Action Item—Astronomical, Atmospheric, Earth, and Ocean Sciences—Earth Sciences.

M. REBECCA WINKLER,
Acting Committee Management Officer.

APRIL 12, 1977.

[S–167–77 Filed 4–13–77;8:45 am]

8

AGENCY HOLDING THE MEETING: National Railroad Passenger Corporation.

In accordance with rule 4a. of Appendix A of the By-laws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on April 22, 1977.

A. The meeting will be held on Friday, April 22, 1977, in the Monet Room of the L'Enfant Plaza Hotel, 480 L'Enfant Plaza East SW., Washington, D.C., beginning at 9:00 a.m. The portion of the meeting beginning at 9:00 will be closed to the public, during which time the Board will consider agenda item No. 1, as identified below.

B. The meeting will be open to the public beginning at 9:30 a.m. starting with agenda item No. 2, as identified below.

C. The agenda items to be discussed at the meeting follow:

AGENDA—NATIONAL RAILROAD PASSENGER CORPORATION

MEETING OF THE BOARD OF DIRECTORS—APRIL 22, 1977

9:00—Closed session: 1. Internal Personnel Matters.
9:30—Open session:
2. Approval of Minutes of Regular Meeting of March 30, 1977.
3. Committment Approval Requests: 77–82—Canton, Ohio—Construct New Station; 77–89—Refurbish North Philadelphia Station; 75–5–82—Right-of-Way Improvements-Northeast Corridor; 77–136—Acquisition of Ten New Diesel Electric Locomotives.
4. Board Committee Reports:
   A. Planning/Equipment: (1) Update on 30th Street Office Space Plan; (2) Update on LRC Trains; (3) Modification of Conventional Sleepers to Operate with Electric Heat and AMPLERT Equipment; (4) Route Criteria Task III; (5) Conversion of Ten Unserviceable E–8 Type Locomotives Into Steam Generator Cars.
   B. Northeast Corridor Improvement Project: (1) Status Report.
   C. Track Policy: (1) Status Report.

5. President's Reports:
A. Operations: (1) National Operations; (2) Operations Support; (3) Northeast Corridor Operations.
B. Marketing.
C. Government Affairs.
D. Other: (1) Discussions with Representatives of Greyhound Bus Lines.
6. Financial Reports.
7. General Fare Increase.
8. New Business.
9. Adjournment.

D. Inquiries regarding the information required to be made available to the public pursuant to Appendix A of the Corporation's By-laws should be directed to the Corporate Secretary at 202-484-7679.

Dated: April 12, 1977.

ELYSE G. WANDER,
Corporate Secretary.

[S-163-77 Filed 4-12-77;4:08 pm]

9

AGENCY HOLDING THE MEETING: International Trade Commission.

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on Tuesday, April 12, 1977, beginning at 3 p.m., in the Hearing Room of the United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436. Except as hereinafter specified, the Commission plans to consider the following agenda items in open session:

1. Color Television Receivers (Inv. 337-TA-23)—see action jacket OP1-77-52, and a memorandum from Commissioner Bedell, dated April 12, 1977.

Commissioners Minchew, Parker, Leonard, Moore, and Bedell determined by recorded vote that Commission business requires that the meeting of April 12, 1977, be called with less than one week's prior notice, and directed the issuance of this notice at the earliest practicable time. (Commissioner Ablondi did not participate in the vote.)

If you have any questions concerning the agenda for the April 12, 1977, Commission meeting, please contact the Secretary to the Commission at 202-523-0161. Access to documents to be considered by the Commission at the meeting is provided for by access to the public files of the Commission, or when such documents are not in such files, as provided for in Subpart C of the Commission's rules (19 CFR 201.17-201.21).

On the authority of 19 U.S.C. 1335 and in conformity with 19 CFR 201.38(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

Issued: April 12, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[S-164-77 Filed 4-12-77;5:09 pm]

10

AGENCY HOLDING THE MEETING: International Trade Commission.

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on Friday, April 22, 1977, beginning at 9:30 a.m., in the Hearing Room of the United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436. Except as hereinafter specified, the Commission plans to consider the following agenda items in open session:

(1) Agenda; (2) Minutes; (3) Report on Balance-of-Payments; (4) Swimming Pools (Inv. 337-TA-25)—final vote; (5) Status report on optional work projects; (6) Complaints and petitions; (7) Judge Renick's memorandum of March 31, 1977, on the hearing in Investigation 337-TA-23 (Color Television Receivers); (8) Briefing by the staff on the budget hearings; (9) Items left over from previous agenda; and (10) Reorganization.

If you have any questions concerning the agenda for the April 22, 1977, Commission meeting, please contact the Secretary to the Commission at (202) 523-0161. Access to documents to be considered by the Commission at the meeting is provided for by access to the public files of the Commission, or when such documents are not in such files, as provided for in Subpart C of the Commission's rules (19 CFR 201.17-201.21).

On the authority of 19 U.S.C. 1335 and in conformity with 19 C.F.R. 201.38(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.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c) (2) and (6), on the authority of 19 U.S.C. 1335, and in conformity with 19 C.F.R. 201.36(b) (2) and (6), Commissioners Parker, Moore, Bedell, and Ablondi voted to hold the portion of the April 22, 1977, meeting with respect to the selection of personnel under reorganization (agenda item No. 10) in closed session. Commissioners Minchew and Leonard voted against closing this portion to the public.

A majority of the entire membership of the Commission felt that this portion of the meeting should be closed to the public since: (1) The discussion would only concern internal personnel practice and procedures; and (2) the information discussed in such portion would be likely to disclose information of a personal nature which could constitute a clearly unwarranted invasion of personal privacy.

Those persons expected to be present at this closed portion, and their corresponding affiliations, are listed as follows:

Daniel Minchew, Chairman.
Joseph O. Parker, Vice Chairman.
Will E. Leonard, Commissioner.
George M. Moore, Commissioner.
Catherine Bedell, Commissioner.
Italo H. Ablondi, Commissioner.
Kenneth R. Mason, Secretary.
Jayne L. Silva, Staff Assistant (if Mr. Mason is not available).
E. Bernice Morris, Staff Assistant.
Charles R. Ramsdale, Chief, Personnel Division.
Norma H. Warbis, Personnel Management Specialist (if Mr. Ramsdale is not available).
Bruce N. Hatton, Assistant to Commissioner Leonard.

The General Counsel to the Commission certified that it is his opinion that the Commission's action in closing this portion of its meeting of April 22, 1977, was properly taken by a vote of a majority of the entire membership of the Commission pursuant to 5 U.S.C. 552b (d) (1) and in conformity with 19 CFR 201.36(e). The discussion to be held in closed session is within the specific exemptions of 5 U.S.C. 552b(c) (2) and (6) and 19 CFR 201.36(b) (2) and (6).

Issued: April 11, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.
RUSSELL N. SHEWMAKER,
General Counsel.

[S-165-77 Filed 4-12-77;5:09 pm]

11

AGENCY HOLDING THE MEETING: International Trade Commission.

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on Monday, April 25, 1977, beginning at 9:30 a.m., in the Hearing Room of the United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436. Except as hereinafter specified, the Commission plans to consider the following agenda items in open session:

(1) Agenda; (2) Minutes; (3) Travel funds (see Commissioner Bedell's memorandum of March 29, 1977, and action jacket CO1-77-85); (4) Glass fiber optics (see memorandum dated March 31, 1977, from Mr. Jablonski); (5) Petitions and complaints; (6) Items left over from previous agenda; and (7) Reorganization.

If you have any questions concerning the agenda for the April 25, 1977, Commission meeting, please contact the Secretary to the Commission at (202) 523-0161. Access to documents to be considered by the Commission at the meeting is provided for by access to the public files of the Commission, or when such documents are not in such files, as provided for in Subpart C of the Commission's rules (19 CFR 201.17-201.21).

On the authority of 19 U.S.C. 1335 and in conformity with 19 CFR 201.38 (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 Commisson.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c) (2) and (6), on the au-

thority of 19 U.S.C. 1335, and in conformity with 19 CFR 201.36(b) (2) and (6), Commissioners Parker, Moore, Bedell, and Ablondi voted to hold the portion of the April 25, 1977, meeting with respect to the selection of personnel under reorganization (agenda item No. 7) in closed session. Commissoners Minchew and Leonard voted against closing this portion to the public.

A majority of the entire membership of the Commission felt that this portion of the meeting should be closed to the public since: (1) The discussion would only concern internal personnel practice and procedures; and (2) the information discussed in such portion would be likely to disclose information of a personal nature which could constitute a clearly unwarranted invasion of personal privacy.

Those persons expected to be present at this closed portion, and their corresponding affiliations, are listed as follows:

Daniel Minchew, Chairman.
Joseph O. Parker, Vice Chairman.
Will E. Leonard, Commissioner.
George M. Moore, Commissioner.
Catherine Bedell, Commissioner.
Italo H. Ablondi, Commissioner.
Kenneth R. Mason, Secretary.
Jayne L. Silva, Staff Assistant (if Mr. Mason is not available).
E. Bernice Morris, Staff Assistant.
Charles R. Ramsdale, Chief, Personnel Division.
Norma H. Warbis, Personnel Management Specialist (if Mr. Ramsdale is not available).
Bruce N. Hatton, Assistant to Commissioner Leonard.

The General Counsel to the Commission certified that it is his opinion that the Commission's action in closing this portion of its meeting of April 25, 1977, was properly taken by a vote of a majority of the entire membership of the Commission pursuant to 5 U.S.C. 552b (d) (1) and in conformity with 19 CFR 201.36(e). The discussion to be held in closed session is within the specific exemptions of 5 U.S.C. 552b(c) (2) and (6) and 19 CFR 201.36(b) (2) and (6).

Issued: April 11, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

RUSSELL N. SHEWMAKER,
General Counsel.

[S-166-77 Filed 4-12-77;5:09 pm]

12

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 68, page 18686, Friday, April 8, 1977.

CONTACT PERSON FOR MORE INFORMATION:

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., Wednesday, April 13, 1977.

Mr. Robert Marshall, 202-376-3012.

CHANGES IN THE MEETING: Proposed Modifications of Applications for Insurance of Accounts and Permission to Organize (Application Forms) is Withdrawn from the Agenda for the Open Meeting, No. 13, April 13, 1977.

RONALD A. SNIDER,
Assistant Secretary.

[S-169-77 Filed 4-13-77;10:42 am]

13

AGENCY HOLDING THE MEETING: U.S. Railroad Retirement Board.

TIME AND DATE: 10 a.m., April 22, 1977.

PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Illinois, 60611.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:
Portions open to the public:

(1) Computerized accounting system for the bureau of budget and fiscal operations.
(2) Purchase of new X-ray machine for the Board's medical services section.
(3) Purchase of plaques for identification of Board's field service offices.
(4) Space for hearings and appeals referees.

Portions closed to the public:

(5) Appeal to the Board of denial of annuity application, George L. Colbert.
(6) Appeal to the Board of denial of annuity application, Philip A. Erardi.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board, 312-387-4920.

[S-170-77 Filed 4-13-77;10:57 am]

14

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: April 7, 1977, 42 FR 18507.

PREVIOUSLY ANNOUNCED TIME AND DATE: 9:30 a.m., April 14, 1977.

CHANGES IN THE MEETING: By a vote on April 8, 1977, the Commission decided: to add an item to its April 14 agenda; to close that portion of the meeting; and to waive the seven day notice requirement, because Agency business requires that the item be considered without the normal notice. The item, a recommended prosecution under the Federal Hazardous Substances Act and the Poison Prevention Packaging Act (BCMI #6-217), will be considered in a closed session immediately following the last two items previously announced for consideration at the morning session, which are also closed to the public.

[S-171-77 Filed 4-13-77; 11:21 am]

15

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: 2 p.m., April 22, 1977.

PLACE: Room 12126.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Monthly Report of Actions Pursuant to Delegated Authority.
(2) Report on times shortened for submitting comments on section 15 agreements pursuant to delegated authority.
(3) Report on Notation Items Disposed of During March 1977.
(4) Report on Applications for Admission to Pratice approved during the month of March 1977.
(5) Report on Assignment of Informal Dockets.
(6) Agreement Nos. 10072 and 10072-1—Cruise Lines International Association—a Proposed Conference Agreement.
(7) Agreement No. 10236, Latin American Discussion Agreement.
(8) Agreement No. T-1393, as amended: between the Greater Baton Rouge Port Commission and Baton Rouge Marine Contractors, Inc., and Agreement No. T-3365, as amended by T-3365-1; between the Port and Capital City Stevedores, Inc.
(9) Proposed Amendents to Rules of Practice and Procedure; Simplification of Rule Designations and nomenclature of parties.
(10) Special Docket No. 486—P.O. International, Inc. v. Sea-Land Service.
(11) Docket No. 73-22—Matson Navigation Co.—Proposed Changes In Rates Between The U.S. Pacific Coast and Hawaii. Docket No. 73-22 (Sub No. 1)—Matson Navigation Co.—General Rate Increase In The Hawaiian Trade. Docket No. 74-36 (Sub No. 1)—Matson Navigation Co.—Proposed Increases In Auto Rates; Request for Oral Argument.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary, 202-523-5727.

[S-172-77 Filed 4-13-77;1:15 pm]

16

AGENCY HOLDING THE MEETING: U.S. Commission on Civil Rights.

TIME AND DATE: 9:00 a.m.-12:00 p.m.; 1:30 p.m.-5:30 p.m., Monday, April 18, 1977; 8:00 a.m. to conclusion of agenda, Tuesday, April 19, 1977.

PLACE: Open portion of meeting: Room 512; Closed portion of meeting: Room 800, 1121 Vermont Avenue, N.W., Washington, D.C.

STATUS: Part of the meeting will be open to the public and part of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public 1:00 p.m.-2:30 p.m., Monday, April 18, 1977:

(1) Approval of agenda
(2) Approval of minutes of last meeting
(3) Staff Director's report
  A. Status of funds
  B. Personnel Report
  C. Correspondence
  D. Office directors' reports
(4) Decision regarding interim appointments to Arkansas, New York, and Rhode Island Advisory Committees
(5) Decision regarding rechartering of New Jersey and Wisconsin Advisory Committees
(6) Report on civil rights developments in the Southern and Southwestern Regions
(7) Decisions on consumer federation request regarding discriminatory clubs
(8) Report on Voting Rights Act monitoring efforts
(9) Decision on age discrimination hearings
(10) Decision on Arab boycott hearing
(11) Newsclips

MATTERS TO BE CONSIDERED:

Portion closed to the public on April 18, 1977, at 9:00 a.m. and 2:30 p.m. and on April 19, at 8:00 a.m.:

(1) Decision on proposed legislation extending life of Commission
(2) Review of testimony on HR 3504 (amendments to Title VII of the Civil Rights Act of 1964, reorganization of the EEOC)
(3) Review of Los Angeles hearing report on school desegregation
(4) Review of Volume VII, Federal Civil Rights Enforcement Effort report (civil rights policymaking in the Federal Government)

CONTACT PERSON FOR FURTHER INFORMATION:

Barbara Brooks, Public Affairs Unit, (202) 254-6697.

[S-175-77 Filed 4-13-77;5:02 pm]

federal register

FRIDAY, APRIL 15, 1977

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

ENVIRONMENTAL IMPACT CONSIDERATIONS

Procedural Changes for Impact Statements

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

[Doc. No. 76N-0327]

ENVIRONMENTAL IMPACT CONSIDERATIONS

Procedural Changes for Impact Statements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule sets forth amendments to the environmental impact consideration regulations. This action is based on consideration of the Council on Environmental Quality revised guidelines for the preparation of environmental impact statements by Federal agencies. These amendments make procedural changes in the environmental impact statement regulations.

EFFECTIVE DATE: May 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Buzz L. Hoffman, Environmental Impact Staff (HFS-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-4500).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is amending the regulations in Part 25 (formerly Part 6 (21 CFR Part 6), prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15533)) governing the need for, and the procedures for preparing, environmental impact statements pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332)) and revised guidelines on such procedures issued by the Council on Environmental Quality in the FEDERAL REGISTER of August 1, 1973 (38 FR 20550).

For the convenience of the reader, the following is a list of sections affected by this document which were part of the reorganization of Subchapter A published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553):

New section:	Old section
20.100	4.100
25.1	6.1
25.20	6.2
25.25	6.3
25.30	6.6

Proposed amendments were published in the FEDERAL REGISTER of April 16, 1974 (39 FR 13742). During the 60-day comment period, nine comments were received from the following groups: The Council on Environmental Quality, four trade associations, and four regulated manufacturers. The principal points raised by the comments received and the Commissioner's conclusions follow.

INVESTIGATIONAL NEW DRUG APPLICATIONS

One comment proposed that approval of investigational new drug applications be included in § 25.1(d) (21 CFR 25.1(d)) as agency actions that are totally excluded from environmental impact statement consideration, in that investigational new drugs are usually manufactured in small quantities in pilot-type process facilities and therefore cannot be considered major federal actions significantly affecting the quality of the human environment.

The Commissioner concludes, as indicated in § 25.1(d)(5) of the existing environmental regulations, that in some instances the manufacture and use of an investigational new drug may significantly affect the quality of the human environment. For example, the manufacture or use of an investigational drug may release a toxic substance into the environment, or the source of raw material for the drug may affect plant or animal populations or other natural resources. Accordingly, actions on notices regarding such drugs shall be included in new § 25.1(b)(14) as agency actions requiring consideration of the need for an environmental impact statement, and in new § 25.1(f)(11) as actions for which, under § 25.1(g), environmental impact analysis reports are not normally required but for which environmental manufacturing process information is required. Existing § 25.1(d)(5) is deleted.

Since approval of an investigational new drug application is more appropriately termed an action on an investigational new drug notice, new § 25.1 (b)(14) and (f)(11) are amended to refer to FDA actions on investigational new drugs as "actions regarding investigational new drug notices and investigational new animal drug notices." Existing § 25.1(b)(13) has been editorially revised and is redesignated as § 25.1(b)(16).

EXEMPTION FOR ARTICLES IDENTICAL, SIMILAR, OR RELATED TO ARTICLES ALREADY ON THE MARKET

One comment objected to the scope of § 25.1(f)(1)(iii) of the amendments, which, in most circumstances, exempts from the requirement of an environmental impact analysis report drugs, animal drugs, or biological products that, in chemical structure or biological composition, or known pharmacological properties and indications for use, are identical, similar, or related to such articles that are already being marketed, where there is no reason to conclude that the marketing of the new article will change the overall use pattern or existing market for the article involved.

The Commissioner concludes that the terms "similar" and "related to" in this provision are not excessively broad. Many drugs, animal drugs, and biological products vary slightly in chemical structure, biological composition, known pharmacological properties, and indications for use primarily because of patent laws, and these terms are therefore sufficiently definite to describe the types of these articles included within the exemption. Moreover, the same terms are used in relation to the applicability of Drug Efficacy Study Implementation notices under § 310.6 (21 CFR 310.6).

Two other comments proposed to delete the phrase "me-too" from the exemption in this section because it is a subjective term that can have a variety of meanings.

The Commissioner concurs with the proposal, and the phrase "me-too" is therefore deleted from this section.

AUTHORITY

One comment questioned the authority of FDA to require applicants and petitioners to submit information in an environmental impact analysis report.

The Commissioner concludes that section 1500.7(c) of the Council on Environmental Quality guidelines provides such authority. In the pertinent part, that provision states: "Where an agency relies on an applicant to submit initial environmental information, the agency should assist the applicant by outlining the types of information required." Under § 25.1(h), the failure to submit an adequate environmental impact analysis report, if one is required, shall be sufficient grounds to refuse to accept or file the application or petition. The comment contended that FDA lacks the authority to require submission of an adequate environmental impact analysis report as a criterion for accepting, filing, and approving applications and petitions submitted to the agency.

As stated in the preamble to the final order published in the FEDERAL REGISTER of March 15, 1973 (38 FR 7001) promulgating the existing environmental regulations of FDA, NEPA, as interpreted by the courts, requires FDA to consider environmental issues in reviewing and acting on applications and petitions. The Commissioner concludes, therefore, that to assist it in such consideration, the agency has the authority to establish, as a requirement for accepting, filing, and approving an application or petition, the submission of adequate environmental data in an environmental impact analysis report included as part of the application or petition. In addition, section 1500.7(c) of the Council on Environmental Quality guidelines provides such authority.

MANUFACTURING PROCESS INFORMATION

Two comments objected that the inclusion in § 25.1(g) of an analysis of the environmental effects of the manufacturing process of the article that is the subject of a requested agency action is unnecessary in view of existing Federal, state, and local permit requirements and the fact that by the terms of § 25.1(f) an action governed by § 25.1(g) significantly affects the quality of the human environment only in rare or unusual circumstances.

The Commissioner concludes, as he indicated in the preamble to the proposal of April 16, 1974 (39 FR 13744), that FDA has a duty under NEPA to consider whether the manufacture, preparation, processing, or packaging of articles governed by § 25.1 (f) and (g) will significantly affect the quality of the human environment, irrespective of the environmental effects of the articles upon or af-

ter use. Accordingly, the requirement of an analysis of the environmental effects of the manufacturing process of such articles shall be included in § 25.1(g).

The Commissioner further concludes that an applicant or petitioner who claims to be exempt from submitting an environmental impact analysis report pursuant to § 25.1(g) shall be required to indicate which subparagraph of § 25.1(f) covers the article involved in the application or petition and therefore warrants such exemption. Section 25.1(g) is amended to state this accordingly.

One comment proposed that the terms "pollutants" and "emission" in § 25.1(g) conform to environmental definitions of the Environmental Protection Agency.

The Commissioner notes that environmental definitions of the Environmental Protection Agency vary in the several statutes administered by that agency and concludes that the environmental terms in § 25.1(g) are sufficiently definite to enable applicants or petitioners to submit the environmental manufacturing process information required by this section.

ENVIRONMENTAL IMPACT ANALYSIS

The Commissioner concludes that § 25.1(m) should be amended to clarify the agency's procedure for analyzing an environmental impact analysis report or statement of exemption from an applicant or petitioner, and to distinguish the factual environmental analysis required in an environmental impact analysis report from the agency's evaluation in an environmental assessment report of the need for an environmental impact statement. The amendment specifies that the responsible agency official shall, on the basis of the environmental impact analysis report or statement of exemption received along with other relevant information, prepare an environmental assessment report stating the agency's conclusion as to whether an environmental impact statement is required for the action and the reasons for this conclusion, and shall prepare an environmental impact statement pursuant to § 25.25 (a) if one is required.

COST-BENEFIT ANALYSIS

Two comments objected to the requirement of cost-benefit analysis in an environmental impact statement as provided by § 25.20(a)(8), and to the requirement of such an analysis in an environmental impact analysis report as stated in § 25.1(k), alleging that such an analysis is not authorized by NEPA.

Since section 1500.8(a)(8) of the Council on Environmental Quality guidelines provides for a cost-benefit analysis in an environmental impact statement, the Commissioner concludes that such a revision is authorized by NEPA and should be retained in § 25.20(a)(8). Since section 1500.7(c) of the Council on Environmental Quality guidelines authorizes Federal agencies to rely on applicants to submit initial environmental information for the preparation of environmental impact statements, the Commissioner concludes that provision for a cost-benefit analysis in an environmental impact analysis report is authorized by NEPA and shall be included in § 25.1(k) (redesignated as 25.1(j)).

The Commissioner further concludes that since risks to the environment are the principal costs to be described in any cost-benefit analysis issued under NEPA and these regulations, this analysis shall be termed a risk-benefit analysis in new § 25.1(j) and in § 25.20(a)(8) (21 CFR 25.20(a)(8)).

TRADE SECRETS AND CONFIDENTIAL INFORMATION

One comment argued that the existence of pending new drug applications and investigational new drugs is confidential commercial information entitled to protection from disclosure as trade secrets and, therefore, approvals of new drug applications or actions regarding investigational new drug notices for which environmental impact statements are prepared should not be the subject of public hearings pursuant to § 25.25(c) (21 CFR 25.25(c)) or of statements prepared by FDA pursuant to § 25.25(d) assessing the environmental effects of such approvals.

The Commissioner concludes that approval of new drug applications shall be subject to the public hearing provision of § 25.25(c) (revised and redesignated as § 25.25(d)) since under Part 20 (21 CFR Part 20) the existence of approved new drug applications is not confidential; a listing of all such applications will be maintained by FDA for public inspection. The Commissioner further concludes that since the existence of an investigational new drug may be confidential information under Part 20, actions regarding investigational new drug notices and investigational new animal drug notices that are confidential information under that part shall not be subject of public hearings under § 25.25 (d). That section is amended accordingly.

To protect trade secrets and confidential information from disclosure in any document prepared by FDA pursuant to Part 25, the Commissioner concludes that § 25.1(l) shall be amended to provide that data and information constituting trade secrets and confidential information under Part 20, shall not be included in environmental impact analysis reports prepared by applicants, in environmental assessment reports, or in environmental impact statements, all of which are made public pursuant to the provisions of § 25.30 (21 CFR 25.30).

Although § 25.1(l) provides that the agency may not include trade secrets or confidential information in an environmental assessment report or an environmental impact statement, such data shall be available to the agency official analyzing a petitioner's or an applicant's environmental impact analysis report so that a full environmental analysis may be made. The format for an environmental impact analysis report, in proposed § 25.1(k), provides in item 9 that such data may be substituted in these reports by references to appropriate parts of the petition or application. This provision has been retained under redesignated § 25.1(j), item D. Proposed § 25.25(d) is deleted.

SIMULTANEOUS PUBLICATION OF FINAL ENVIRONMENTAL IMPACT STATEMENT AND REGULATION

One comment objected that the amendment to § 25.25(a)(5) providing for simultaneous publication in the FEDERAL REGISTER of the notice of availability of a final environmental impact statement and a regulation effective 30 days after date of publication whose subject is the same as that of the statement conflicts with section 1500.11(b) of the Council on Environmental Quality guidelines, which provides that, to the maximum extent practicable, no agency action shall be taken sooner than 30 days after a final environmental impact statement thereon is forwarded to the Council on Environmental Quality and made available to the public. The comment alleged that this amendment does not comply with the Council on Environmental Quality provision that an agency consider the results of its impact statement prior to reaching a final decision on the proposed action.

The Commissioner concludes, as he stated in the preamble to the proposal in the FEDERAL REGISTER of April 16, 1974, that the simultaneous publication amendment meets the Council on Environmental Quality requirement and its intended policy. Since the final environmental impact statement is released when the regulation is published, the conclusions of the statement will have been fully considered in reaching a final decision on the regulation. Moreover, any regulation published simultaneously in the FEDERAL REGISTER with the notice of availability of its final environmental impact statement must have at least a 30-day effective date, affording interested persons the opportunity to review the regulation and the final environmental impact statement before the regulation becomes final.

CERTAIN OTHER COMMENTS

Two comments proposed that approval of supplemental new drug applications be included within the scope of the exemptions provided by § 25.1(f) as actions that normally do not significantly affect the quality of the human environment.

The commissioner concurs with this proposal, and § 25.1(f) is amended accordingly.

One comment proposed that approval of color additive petitions be included within the scope of the exemptions provided by § 25.1(f).

The Commissioner concurs with this proposal with respect to the articles specified in the exemption provided by § 25.1(f)(1)(iv), and that provision is amended accordingly.

One comment proposed to include biological product licenses within the scope of the exemption provided by § 25.1(f)(1)(iv).

The Commissioner concurs with this proposal, and that provision is amended accordingly.

One comment proposed that the language of § 25.1(f)(2)(i)(b) be clarified to indicate that environmental consideration of approval of new premixes for use in animal feeds should focus on the end-use concentration of the new premix rather than on the concentration of the new premix, which cannot be greater than that of the approved premix.

The Commissioner agrees with this proposal, and this section is therefore amended to read as follows: "A new premix for a previously approved animal drug which provides for no more than the dosage levels, duration of administration, and makes the same claims as the approved premix for the previously approved new animal drug."

One comment proposed that food additives for investigational use in animals pursuant to § 511.1 (21 CFR 511.1) be included in § 25.1(f)(11).

The Commissioner agrees with this proposal, and this section, with the changes discussed under "Investigational New Drug Applications", is therefore amended to read as follows: "Actions regarding investigational new drug notices and investigational new animal drug notices, including food additives used pursuant to investigational new animal drug notices under § 511.1 of this chapter."

One comment proposed that the establishment by regulation of labeling or other requirements for marketing articles and the establishment by regulation of standards for articles should be removed from § 25.1(b)(6) and (7), respectively, and included in § 25.1(f), which requires environmental impact statements only in rare or unusual circumstances.

The Commissioner concludes that regulations regarding labeling requirements for marketing drugs, animal drugs, foods, and cosmetics will require environmental impact statements only in rare or unusual circumstances, and a new paragraph (f)(12) is therefore added to § 25.1, normally exempting such regulations from the requirement of environmental impact analysis reports.

Two comments proposed that approval of biological product licenses, new drug applications, new animal drug applications, requests for certification of new antibiotic drugs, food additive petitions, and color additive petitions that are subject to environmental consideration under § 25.1(b) be included in § 25.1(f) whereby they would be exempt in most instances from the requirement of an environmental impact analysis report.

The Commissioner concludes that many of the actions within these classes may significantly affect the quality of the human environment with a degree and frequency requiring full environmental consideration; therefore, these classes of actions cannot be exempted under § 25.1(f) without further specification. However, several of the individual actions within these classes have been included in § 25.1(f) and will be exempt in most instances from the requirements of an environmental impact analysis report.

One comment objected that approval of supplemental new animal drug applications need not be included in §§ 25.1(f)(1) and (2) in view of the inclusion of such actions in existing § 25.1(c), which exempts them from the requirement of an environmental impact statement unless, in the Commissioner's judgment, the change effected by the supplement is substantial.

Since the degree of change effected by an amendment to an existing regulation or approval in existing § 25.1(c) may have no bearing on the potential impact that an amendment or supplement will have on the quality of the human environment, the Commissioner concludes that this section is not needed in the regulations. The agency, in preparing its environmental assessment report of the amendment or supplement pursuant to § 25.1(m), will determine, as for any other action, whether the amendment or supplement requires an environmental impact statement. Accordingly, existing § 25.1(c) is deleted from the regulations.

To clarify that amendments or exemptions with respect to existing regulations and approval of supplements to existing approvals are to be governed by Part 25, the Commissioner concludes that a new § 25.1(b)(15) should be added to the regulations to this effect.

The Commissioner believes the connection between the environmental assessment by FDA of an amendment or exemption with respect to an existing regulation, or an approval of a supplement to an existing approval, and the agency's retroactive environmental assessment of existing regulations should be further clarified. Accordingly, the Commissioner has determined that proposed § 25.1(h), redesignated as new § 25.1(c), shall be amended to provide that FDA shall prepare an environmental assessment report of existing regulations that have not received environmental analysis when that is necessary to the consideration of the environmental effects of an amendment, supplement, or exemption concerning an existing regulation proposed after the effective date of this order. Environmental assessment reports prepared by the agency on existing regulations pursuant to this paragraph may govern classes of regulations as well as individual regulations. Proposed paragraphs (i) through (k) of § 25.1 are redesignated as paragraphs (h) through (j), respectively.

New § 25.1(c) is also amended to provide that environmental analysis of existing regulations or approvals, whether or not previously subject to environmental consideration, may be initiated by the agency when an amendment, supplement, or exemption is proposed with respect to such regulation or approval or when there is new information before the agency with respect to the environmental effects of such regulation or approval.

New § 25.1(c) is further amended to provide that under the environmental assessment of existing regulations or approvals both the current and original applicants or petitioners and any applicants or petitioners who initiated those regulations, as well as other persons governed by such regulations, may be required to submit an environmental impact analysis report provided by redesignated § 25.1(h) when notified by the agency that one is required.

The Commissioner therefore concludes that approval of supplemental new animal drug applications shall remain included in § 25.1(f)(1) and (2). For those supplemental new drug and supplemental new animal drug applications that are not covered by the exemption from an environmental impact analysis report afforded by the provisions of § 25.1(f), environmental impact analysis reports are required pursuant to redesignated § 25.1(h).

One comment suggested that the words "or are not" in § 25.1(f)(9) render the meaning of that provision unclear. Another comment suggested that the word "produce" in this paragraph be changed to "release" and that the phrase "or disposed of in a sanitary landfill" be added to the paragraph.

The Commissioner concludes that § 25.1(f)(9) shall be clarified and amended to include disposal of all articles regulated by FDA that do not involve any toxic substance. Accordingly, this section is amended to read: "Destruction or disposition of any article, including its packaging, if it does not contain a toxic substance, and will not produce a toxic substance when incinerated or disposed of in a sanitary landfill." This provision applies to all such articles regardless of the type of article, amount involved, or type of packaging, and regardless of whether the disposition results from seizure, injunction, detention, or recall.

One comment proposed that the language of § 25.1(f)(3) be amended to include provisions for food-contact articles intended for repeated use in the household, food service establishments, or food dispensing equipment.

The Commissioner concludes that such articles are intended to be covered by § 25.1(f)(3), which is accordingly amended to read as follows: "Approval of food additives to be used as components of food-contact surfaces of permanent or semipermanent equipment or of other food-contact articles intended for repeated use."

One comment proposed that § 25.30 be amended to provide for newspaper public notice of the availability of environmental impact statements affecting limited geographic areas.

The Commissioner concludes that under existing § 25.30 (21 CFR 25.30) the agency is authorized to and will provide notice through appropriate media to limited geographic areas concerning the availability of environmental impact statements affecting such areas.

With respect to public availability of environmental documents, the Commissioner further concludes the following:

a. Existing § 25.30 (a) and (b) shall be amended to provide for the public availability of environmental impact analysis reports and environmental assessment reports if they are required; in view of this provision and the amend-

ment to the proposed § 25.1(m), proposed § 25.25(d) is deleted;

b. Existing § 25.25(a)(3) (ii) and (iii) is amended to provide for the public availability of environmental assessments when prepared, and § 25.25(a)(3)(vi), which is § 25.25(b) in this final regulation, is amended to provide that the notice of availability of the environmental impact analysis report, statement of exemption, and/or the environmental assessment report for an action that is the subject of a notice of filing published in the FEDERAL REGISTER, shall be published as part of the regulation should the agency be unable to complete its environmental consideration before the notice of filing must be published.

One comment proposed that effects on public health, effects on endangered species, effects on historical places, and compliance with local ordinances be included in the item entitled "Human Values" in the format of an environmental impact analysis report in redesignated § 25.1(j) as examples of such values.

The Commissioner agrees with this proposal and redesignated § 25.1(j) is amended accordingly.

ADDITIONAL AGENCY CHANGE

The Commissioner further concludes, in part on the basis of comments received, that the following additional minor language and procedural changes shall be made in Part 25.

The phrase "treatment or a rare disease" in § 25.1(f)(1)(i) is changed to read "treatment of a rare disease."

The instruction in an environmental impact analysis report to omit any data or information constituting trade secrets or confidential information is removed from the body and set forth at the outset of the format for the report in item D in redesignated § 25.1(j).

A new § 25.1(k) is added to advise that additional direction on the nature and scope of information required to be submitted in an environmental impact analysis report by an applicant or petitioner may be obtained from the bureau or other office of the agency having responsibility for the action that is the subject of the report.

The requirement in section 102(2)(C) of the National Environmental Policy Act of 1969 and section 1500.8(a)(6) of the Council on Environmental Quality guidelines that an environmental impact statement analyze the relationship between local short-term uses of man's environment with respect to the action involved and the maintenance and enhancement of long-term productivity is included in the format for an environmental impact statement in § 25.20(b) as item "6"; the remaining items in the format are renumbered accordingly.

Animal drugs covered by a Form FD-1800 in the criterion for exemption in § 25.1(f)(2)(i)(d) are redesignated as animal feeds bearing or containing drugs approved under the provisions of § 514.2 or § 514.9 (21 CFR 514.2 or 514.9).

Redesignated § 25.1 (h) and (i) are amended to specify that environmental impact analysis reports are to be prepared in the format set forth in redesignated § 25.1(j).

Section 25.1(f)(1)(iv)(b) is changed to read "or, if it is metabolized, the metabolites in the amounts excreted into the environment are naturally occurring in the environment or (in place of "and") may reasonably be considered to be nontoxic." If the metabolites of a naturally occurring nontoxic article are themselves nontoxic in the amounts excreted into the environment and meet the requirements of § 25.1(f)(1)(iv)(c), they will not have a significant effect on the quality of the human environment, whether or not the metabolites are naturally occurring in the environment.

Reference to an abbreviated new animal drug application is deleted each time it appears in this part since such an application is not authorized by any other provision of this chapter.

Existing § 25.25(a)(2) and (5) are revised to provide that the responsible agency official shall forward copies of draft and final environmental impact statements to the Office of the Secretary and to the Council on Environmental Quality and that draft and final statements will be made available for public inspection in the office of the Hearing Clerk.

Section 25.1(b)(6) is revised to indicate more clearly that it is intended to designate actions other than any of the other types of actions specified in paragraph (b).

In the FEDERAL REGISTER of May 28, 1976 (41 FR 21768), the Commissioner revoked § 25.1(a)(3) pursuant to the order of the Honorable John H. Pratt, United States District Judge, entered in *Environmental Defense Fund, Inc.* v. *Mathews*, 410 F. Supp. 336 (D.D.C., 1976). This regulation provided that a determination of adverse environmental impact pursuant to NEPA did not provide a basis for the Commissioner to take or withhold action under the laws he administers unless the environmental impact was related to adverse health consequences or other effects related to adulteration or misbranding.

On October 31, 1975, the Environmental Defense Fund brought suit seeking to invalidate the regulation. In ruling that the FDA regulation was invalid, Judge Pratt held that NEPA does not supersede the agency's other statutory duties or require that environmental consideration be favored over other factors, but that it does provide supplementary authority to the agency to act on the basis of all environmental considerations. Because the Commissioner concluded that the Court's ruling is not inconsistent with the agency's other statutory obligations, the decision was not appealed.

Subsequent to the ruling in *Environmental Defense Fund, Inc.* v. *Mathews, supra*, holding that NEPA provides broad authority for the agency to base substantive action on adverse environmental impact, the Supreme Court's decision in *Flint Ridge Development Co.* v. *Scenic Rivers Association of Oklahoma*, ____ U.S. ____ 96 S. Ct. 2430 (1976), held that NEPA does not authorize the Department of Housing and Urban Development to suspend the effective date of a statement of record under the Interstate Land Sales Full Disclosure Act so as to give HUD time to prepare an impact statement. In light of these two decisions, the Commissioner concludes that the weight to be accorded environmental factors must be determined on a case-by-case basis. After the agency has acquired experience in the exercise of its substantive authority under NEPA, the environmental regulations may be amended to establish specific criteria for the application of such authority.

Having considered the comments received and other relevant information, the Commissioner concludes that the proposal, with changes, should be adopted as set forth below. Accordingly, § 20.100(c)(3) is editorially amended by cross-reference. Section 25.1 is amended by revising paragraph (b)(6); by deleting the words "and old drug monograph" in paragraph (b)(8); by deleting the words "and old animal drug monographs" in paragraph (b)(9); by revising paragraph (b)(10); by revising and redesignating paragraph (b)(13) as (b)(16) and adding new paragraphs (b)(13), (14) and (15); by revising paragraph (c); by deleting paragraph (d)(5); by revising and redesignating existing paragraphs (e), (f), (g), (h) and (i) as paragraphs (h), (i), (j), (l) and (m) respectively and adding new paragraphs (e), (f), (g) and (k). In revised and redesignated paragraph (i), the word "recalled" has been added and the words "banned by regulation" have been deleted immediately following the words "detained, or." Section 25.25 is amended by revising paragraph (a)(2), (3)(ii), and (5); by redesignating paragraph (b) as paragraph (c); by revising and redesignating paragraph (a)(3)(vi) as new paragraph (b); by editorially amending and redesignating paragraph (c) as paragraph (e); and by adding new paragraph (d). In § 25.30, paragraphs (a) and (b) are amended and new paragraphs (c) and (d) are added.

Therefore, under the National Environmental Policy Act of 1969 (sec. 102(2)(C), 83 Stat. 853 (42 U.S.C. 4332)); and under the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055–1056 as amended (21 U.S.C. 371)); Fair Packaging and Labeling Act (sec. 2 et seq., 80 Stat. 1296 (et seq. (15 U.S.C. 1451 et seq.)) the Public Health Service Act (secs. 301, 351, 352, 454–360F, 58 Stat. 691 as amended, 702 as amended by 81 Stat. 536, 82 Stat. 1173–1187 (42 U.S.C. 241, 262, 263–263n)); and under authority delegated to the Commissioner (21 CFR 5.1), Parts 20 and 25 of Subchapter A and Part 601 of Subchapter F are amended as follows:

PART 20—PUBLIC INFORMATION

§ 20.100 [Amended]

1. In Part 20, by amending § 20.100(c)(3) by deleting the reference to "25.1(h)".

PART 25—ENVIRONMENTAL IMPACT CONSIDERATIONS

2. In Part 25: by revising § 25.1 to read as follows:

§ 25.1 Applicability.

(a) (1) An environmental impact statement shall be prepared, circulated, and filed pursuant to section 102(2) (C) of the National Environmental Policy Act of 1969 for every major agency action that significantly affects the quality of the human environment.

(2) Agency decisions shall include a careful consideration of all environmental effects of proposed actions.

(b) The need for preparing an environmental impact statement shall be considered for the following agency actions pursuant to environmental criteria established by the agency and the department.

(1) Recommendations or reports made to Congress on proposals for legislation in instances where the agency has primary responsibility for the subject matter involved;

(2) Destruction of articles condemned after seizure or enjoined;

(3) Destruction of articles following detention or recall at agency request;

(4) Disposition of Food and Drug Administration laboratory waste materials;

(5) Issuance of licenses for biological products;

(6) Establishment by regulation of labeling or other requirements for marketing articles other than through any of the other types of actions specified in this paragraph;

(7) Establishment by regulation of standards for articles (except food standards);

(8) Approval of new drug and abbreviated new drug applications;

(9) Approval of new animal drug applications;

(10) Approval of requests to provide for certification of new antibiotic drugs for which no provision for certification is made in the existing regulations in this chapter;

(11) Approval of food additive petitions;

(12) Approval of color additive petitions;

(13) Intramural or extramural research supported in whole or in part through grants and contracts (except biostatistical and epidemiological studies);

(14) Actions regarding investigational new drug notices and investigational new animal drug notices;

(15) Amendments or exemptions with respect to existing regulations and approval of supplements to existing approvals of any of the types of regulations and approvals specified in this paragraph;

(16) Actions to establish or amend policy, other regulations, or agency procedures that could significantly affect the quality of the human environment.

(c) (1) The need for preparing an environmental impact statement for existing regulations or approvals of any of the types specified in paragraph (b) of this section that have not previously received environmental analysis shall be considered when that is necessary to the consideration of the environmental effects of an amendment, supplement, or exemption proposed with respect to such a regulation or approval. Environmental assessment reports prepared by the agency on existing regulations pursuant to this paragraph and paragraph (m) of this section may govern classes of existing regulations as well as existing individual regulations. For existing regulations or approvals for which an amendment, supplement, or exemption is proposed:

(i) The current applicant or petitioner shall submit an environmental impact analysis report as provided by paragraph (h) of this section with respect to the existing regulation or approval if notified by the agency in writing that one is required;

(ii) Any applicant or petitioner who initiated the existing regulation, if different from the current applicant or petitioner, and other persons governed by such regulations or approvals shall submit an environmental impact analysis report as provided by paragraph (h) of this section with respect to the existing regulation or approval if notified by the agency in writing that one is required.

(2) The need for preparing an environmental impact statement for existing regulations or approvals of any of the types specified in paragraph (b) of this section, whether or not previously subject to environmental analysis, may be considered by the agency when an amendment, supplement, or exemption is proposed with respect to such regulation or approval or if there is new information before the agency with respect to the environmental effects of such regulation or approval.

(d) The agency has carefully considered the environmental effects of the following types of actions and has concluded that since they are not major agency actions significantly affecting the quality of the human environment, environmental impact statements are not required for them:

(1) Recommendations for court action concerning foods, drugs, devices, cosmetics, and electronic products;

(2) Factory inspections;

(3) Seafood inspections; and

(4) Issuance, amendment, or repeal of food standards.

(e) After further review of the classes of actions the agency takes, other types of actions will be identified which normally are not major agency actions significantly affecting the quality of the human environment and which will therefore be exempt from the requirements of this part to the extent specified in paragraphs (f) and (g) of this section.

(f) The agency has considered the environmental effects of the following types of actions and has concluded that, because these actions normally do not significantly affect the quality of the human environment, environmental impact statements, except in rare and unusual circumstances, are not required:

(1) Approval or issuance by the agency of new drug applications, abbreviated new drug applications, supplemental new drug applications, requests to provide for certification of new antibiotic drugs, new animal drug applications, supplemental new animal drug applications, food additive petitions, color additive petitions, or biological product licenses for the following articles:

(i) A drug, animal drug, or biological product intended for use in the prevention, diagnosis, or treatment of a rare disease, for infrequent use, or for use in insignificant amounts (taking into account projected effects on animal or man);

(ii) An animal drug intended:

(a) For use in non-food animals;

(b) For ophthalmic or topical application;

(c) For local and general anesthesia;

(d) For use as an in vitro diagnostic product; or,

(e) For pharmacological use:

(1) Under prescription on a limited number of animals; or

(2) In the treatment of a disease or condition which requires individual dose administration; or

(3) In animals which metabolize the drug so that no significant quantities of the drug are excreted into the environment.

(iii) A drug, animal drug, or biological product, which, in chemical structure or biological composition, or known pharmacological properties and indications for use, is identical, similar, or related to a drug, animal drug, or biological product which is already being marketed, and there is no reason to conclude that the marketing of such an additional drug, animal drug or biological product will change the overall use pattern or the existing market for the article involved:

(iv) A drug, animal drug, food additive, color additive, or biological product which meets all of the following criteria:

(a) The article is composed of a substance or its derivatives that naturally occurs in the environment and that may reasonably be considered to be nontoxic in the amounts used;

(b) The article is not metabolized in its use and is excreted unchanged back into the environment or, if it is metabolized, the metabolites in the amounts excreted into the environment are naturally occurring in the environment or may reasonably be considered to be nontoxic; and

(c) The use of the article can reasonably be expected on the basis of all available evidence, not to alter significantly the prevalence and/or distribution of the substance or its derivatives or their metabolites in the environment.

(v) A food additive to be used as a minor constituent of food-packaging material which meets all of the following criteria:

(a) The food additive will not materially change the potential uses of the packaging material to which it is added;

(b) The additive is intended as a replacement for a similar substance already in use;

(c) The additive is used in small concentrations and normally will not significantly affect the environmental im-

pact of the disposal of the packaging material to which it is added; and,

(d) The use of the additive and the ultimate disposal of the packaging material to which it is added normally will not significantly alter the prevalence and/or distribution in the environment of the elements of which the additive is composed.

(2) Approval of new animal drug applications and supplemental new animal drug applications for:

(i) The following types of drugs used in animal feeds:

(a) A combination of previously approved animal drugs which provides for no more than the dosage levels and makes the same claims as the approved drugs;

(b) A new premix for a previously approved animal drug which provides for no more than the dosage levels, duration of administration, and makes the same claims as the approved premix for the previously approved new animal drug.

(c) An animal drug to be distributed under conditions of approval of a previously approved animal drug; and

(d) An animal feed bearing or containing a drug approved by the provisions of §§ 514.2 or 514.9 of this chapter.

(ii) An animal drug for administration other than in animal feed to be distributed under conditions of approval of a previously approved animal drug.

(3) Approval of food additives to be used as components of food-contact surfaces of permanent or semi-permanent equipment or of other food-contact articles intended for repeated use;

(4) Promulgation of monographs for old drugs, old animal drugs, over-the-counter (OTC) drugs, or in vitro diagnostic products;

(5) Promulgation of antibiotic drug monographs;

(6) Approval of color additive petitions to change provisional listings to permanent listings;

(7) Testing and certification of batches of color;

(8) Promulgation of additional standards for licensed biological products;

(9) Destruction or disposition of any article, including its packaging, if it does not contain a toxic substance, and will not produce a toxic substance when incinerated or disposed of in a sanitary landfill;

(10) Training grants and contracts;

(11) Actions regarding investigational new drug notices and investigational new animal drug notices, including food additives used pursuant to investigational new animal drug notices under § 511.1 of this chapter;

(12) Establishment by regulation of labeling requirements for marketing drugs, animal drugs, foods, and cosmetics.

(g) Whenever a person submits an application or petition requesting action by the agency of any of the types specified in paragraph (f) of this section, or proposes to destroy an article as provided in paragraph (f) (9) of this section, he is not required to submit an environmental impact analysis report on the requested action pursuant to paragraphs (h) or (i) of this section unless the agency notifies him in writing that one is required. However, such applicant or petitioner shall submit a statement of exemption containing:

(1) A statement indicating the appropriate subparagraph of paragraph (f) of this section which warrants exemption from the requirement of an environmental impact analysis report; and

(2) For actions specified in paragraphs (f) (1) through (3) and (11) of this section, an analysis of the environmental effects of the manufacturing process of the article that is the subject of the requested action, which shall include:

(i) An identification of the pollutants expected to be emitted;

(ii) A citation of applicable Federal, state, and local emission requirements; and

(iii) A certification that such emission will comply with said requirements.

(h) Except as provided by paragraph (g) of this section, whenever a person submits any application or petition requesting action by the agency of a type specified in paragraph (b) of this section, he shall include an environmental impact analysis report on the requested action in the format prescribed in paragraph (j) of this section. Failure to submit an adequate environmental impact analysis report or statement of exemption in an application or petition, if one is required, shall be sufficient grounds to refuse to accept or file the application or petition.

(i) Except as provided by paragraph (g) of this section, whenever a manufacturer, distributor, or dealer proposes to destroy a food, drug, cosmetic, device, or electronic product that has been condemned, enjoined, detained, or recalled, he shall submit to the agency an environmental impact analysis report in the format prescribed in paragraph (j) of this section analyzing the environmental impact of the disposition of such article.

(j) An environmental impact analysis report shall be prepared in the following format:

ENVIRONMENTAL IMPACT ANALYSIS REPORT

A. Date:

B. Name of applicant/petitioner:

C. Address:

D. Environmental information. (Omit any data or information constituting trade secrets or confidential information. Refer to, instead, the appropriate part of the detailed statement accompanying your application/petition.)

1. *Describe the proposed action.* In this description include:

a. The purpose of the action.

b. The environment to be affected if the action is taken.

2. *Discuss the probable impact of the proposed action on the environment, including primary and secondary consequences.*

a. Describe probable adverse and beneficial environmental effects of the use, consumption and disposal of the article that is the subject of the action, including but not limited to the following areas of environmental impact (where applicable):

(1) Pollution (air, water, soil).

(2) Solid and liquid wastes (compliance).

(3) Toxic substances (heavy metals, pesticides, radiation).

(4) Populations (human, animal, plant).

(5) Human values (e.g., effects on public health, effects on endangered species, effects on historical places, and compliance with local ordinances).

(6) Food contamination.

(7) Natural resources.

(8) Energy.

b. Describe measures taken to avoid or mitigate potential adverse environmental effects.

c. Analyze the environmental impact of the manufacturing process(es) of the article that is the subject of the requested action. Include:

(1) An identification of pollutants expected to be emitted;

(2) A citation of applicable Federal, state, and local emission requirements; and,

(3) A certification that such emission complies with said requirements. Where there are no applicable Federal, state or local emission requirements, citation and certification shall be made to appropriate industry, advisory, or voluntary standards acceptable to the agency.

d. Specific data, including pertinent references, shall be included to substantiate the information provided above.

3. *Describe the probable adverse environmental effects that cannot be avoided.* Identify the adverse environmental effects that cannot be avoided even when the precautionary measures outlined in item 2 are taken.

4. *Evaluate alternatives to the proposed action.* Describe in detail the environmental impact of all reasonable alternatives to the proposed action, particularly those that will enhance the quality of the environment and avoid some or all of the adverse environmental effects of the proposed action. Discuss in detail the environmental benefits and risks of each such alternative.

5. *Describe the relationship between local short-term use of the environment with respect to the proposed action and the maintenance and enhancement of long-term productivity.* Discuss the extent to which the proposed action involves trade-offs between short-term gains at the expense of cumulative, long-term environmental losses and discuss the extent to which the proposed action may foreclose further options for utilizing environmental resources. Special attention should be given to environmental effects that reduce the range of beneficial uses of the environment or pose long-term risks to health or safety.

6. *Describe any irreversible and irretrievable commitment of resources that would be involved if the proposed action should be implemented.* The term "resource" should not be construed to be only the labor and materials devoted to a proposed action. "Resource" also means the natural resources committed to loss or destruction by the action. If no irreversible or irretrievable commitment of resources will result, so state.

7. *Discuss the objections raised by other agencies, organizations, or individuals that are known to the applicant.* If no such objections are known, so indicate.

8. *If the proposed action should be taken prior to 90 days from the circulation of a draft environmental impact statement or 30 days from the filing of a final environmental impact statement, explain why.*

9. *Risk-benefit analysis.* Prepare a risk-benefit analysis to determine whether the economic, technical, and health benefits to the public of the proposed action will outweigh the action's potential risks to the environment. Where practicable, benefits and risks should be quantified, or, if described

qualitatively, presented in a manner that will permit an objective judgment of their value. This analysis should summarize the data presented in the previous sections and should present the reasons why the proposed action, when considered in its totality, is preferable to other alternatives.

E. *Certification.* The undersigned applicant/petitioner certifies the information furnished in this Environmental Impact Analysis Report is true, accurate, and complete to the best of his knowledge.

(Date) (Signature of responsible official)

(Title)

(k) Additional direction on the nature and scope of information required to be submitted in an environmental impact analysis report by an applicant or petitioner may be obtained from the bureau or other office of the agency having responsibility for the action that is the subject of the report.

(l) Data and information that constitute trade secrets or confidential information under Part 20 of this chapter shall not be included in an environmental impact analysis report prepared pursuant to paragraph (h) of this section, in statements of exemption prepared pursuant to paragraph (g) of this section, in environmental assessment reports prepared pursuant to paragraph (m) of this section, or in environmental impact statements prepared pursuant to § 25.25(a).

(m) Upon receipt of an environmental impact analysis report or statement of exemption from an applicant or petitioner or other affected person pursuant to paragraphs (c), (g), or (h) of this section, the responsible agency official shall prepare an environmental assessment report based on the pertinent environmental impact analysis report or statement of exemption and any other relevant information, stating whether an environmental impact statement is required for the action and the reasons for this conclusion, and shall prepare an environmental impact statement pursuant to § 25.25(a) if one is required.

3. By amending § 25.20 by adding new paragraph (a)(8), and in the environmental impact statement format in paragraph (b) by redesignating items 6, 7, 8, and 9 as 7, 8, 9, and 10 respectively and adding a new item 6, as follows:

§ 25.20 Content and format of environmental impact statements.

(a) * * *

(8) A risk-benefit analysis must be included, analyzing what benefits of the proposed action offset any probable adverse environmental effects of the action. The analysis should also indicate the extent to which these benefits could be realized by following reasonable alternatives to the proposed action as described in paragraph (a)(4) of this section that would avoid some or all of any adverse environmental effects.

(b) * * *

("DRAFT" OR "FINAL") ENVIRONMENTAL IMPACT STATEMENT, FOOD AND DRUG ADMINISTRATION (RESPONSIBLE OPERATING DIVISION)

* * * * *

6. Describe the relationship between local short-term uses of the environment with respect to the action and the maintenance and enhancement of long-term productivity.

7. Describe any irreversible and irretrievable commitments of resources involved in implementing the action.

8. Where appropriate, evaluate any objections to the action raised by interested persons.

9. (a) For draft statements, state the date and form of FEDERAL REGISTER publication by which comments are being requested from all interested persons and attach a copy of the notice.

(b) For final statements, list all persons from whom written comments have been received and attach a copy of each.

10. Give the date that the draft or final statement was made available to the Council on Environmental Quality and to the public.

4. By revising § 25.25 to read as follows:

§ 25.25 Preparation and review procedures.

(a) When it is determined that an environmental impact statement is required, the statement shall be prepared as follows:

(1) *Preparation of draft environmental impact statement.* A draft environmental impact statement shall be prepared by the responsible agency official as designated in § 6.4. When appropriate during the preparation of a draft environmental impact statement, the responsible agency official shall consult with Federal, State, and local officials and other interested persons.

(2) *Distribution of draft environmental impact statements.* After the responsible agency official has prepared a draft environmental impact statement, he shall forward 10 copies of the draft statement to the Office of the Secretary and 5 copies to the Council on Environmental Quality. At the same time the draft statement will be made available for public inspection in the office of the Hearing Clerk.

(3) *Solicitation of comments.* (i) After the preparation and distribution of a draft environmental impact statement, comments will be solicited from all interested persons. Sixty days are allowed for reply, after which it is presumed that no comments will be made unless a specified extension of time is requested.

(ii) Where the subject of a draft environmental impact statement is also the subject of a notice of proposed rule making, the FEDERAL REGISTER notice of proposed rule making shall state that the environmental impact analysis report, environmental assessment report, and the draft environmental impact statement are available upon request, and shall solicit comments from all interested persons.

(iii) Where the subject of a draft environmental impact statement is not also the subject of a notice of proposed rule making published in the FEDERAL REGISTER, a notice will be published in the FEDERAL REGISTER describing the proposed action, stating that the environmental impact analysis report, environmental assessment report and the draft environmental impact statement are available upon request, and soliciting comments by all interested persons.

(iv) Comments shall be solicited from Federal agencies having jurisdiction by law or special expertise with respect to the environmental impact of a proposed action by sending them a copy of a draft environmental impact statement.

(v) All comments on draft environmental impact statements shall be submitted in quintuplicate to the Hearing Clerk, Food and Drug Administration, Department of Health, Education, and Welfare, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, where they shall be available for public inspection during working hours, Monday through Friday.

(4) *Time for consideration prior to decision.* Draft environmental impact statements shall be prepared, forwarded to the Council on Environmental Quality, and made available to the public early enough in the consideration of the proposed action to permit meaningful review of the environmental issues involved. To the maximum extent practicable, no final action shall be taken on the proposal earlier than 90 days after a draft environmental impact statement has been prepared, forwarded to the Council, and made available to the public.

(5) *Final environmental impact statements.* The final text of an environmental impact statement shall be prepared by the responsible agency official after comments on the draft statement have been reviewed and shall receive full consideration in the agency's decision making process. The responsible agency official shall forward 10 copies of the final statement to the Office of the Secretary and 5 copies to the Council on Environmental Quality, and copies of the final statement shall be made available for public inspection in the office of the Hearing Clerk. To the maximum extent practicable, no agency action shall take place earlier than 30 days after the final statement has been forwarded to the Council on Environmental Quality and made available to the public. Where the subject of a final statement is also the subject of a regulation published in the FEDERAL REGISTER, this latter requirement may be met by simultaneous publication of a notice of availability of the final statement and the regulation, provided the regulation becomes effective at least 30 days after date of publication.

(6) Where the subject of an environmental impact statement is an agency action governed by specific time requirements under statute or regulation, every effort shall be made to comply with the provisions of this part within the time

specified, and those time requirements shall be extended only as long as is absolutely necessary to permit the agency to consider or issue an environmental impact statement of the action.

(b) When the responsible agency official concludes that no environmental impact statement is necessary and the proposed action is the subject of a notice of proposed rule making or a notice of filing published in the FEDERAL REGISTER notice shall state that no environmental impact statement is necessary and that the environmental impact analysis report, statement of exemption, and environmental assessment report as applicable, are available upon request. Should the responsible agency official be unable to complete environmental consideration of the proposed action before the notice of filing must be published, the FEDERAL REGISTER regulation rather than the notice of filing shall state that no environmental impact statement is necessary and that the environmental impact analysis report, statement of exemption and environmental assessment report as applicable, are available upon request.

(c) When the proposed action involves destruction of condemned, enjoined, detained or recalled articles or disposition of Food and Drug Administration laboratory waste materials, the agency shall adhere to disposal guidelines consistent with Federal, State, and local regulations applicable on a case-by-case basis. This shall be reflected in environmental impact statements when they are issued on such actions.

(d) An informal public hearing will be held when appropriate and for good cause shown on any agency action for which an environmental impact statement is prepared, except actions on investigational new drugs or investigational new animal drugs that may be based on information that is confidential under Part 4 of this chapter.

(e) There are certain regulatory actions which, because of their immediate importance to the public health, make adherence to the requirements of paragraph (a) (1) through (5) of this section impracticable. Compliance with the requirements for environmental analysis under the National Environmental Policy Act is impossible in instances which require immediate regulatory action to safeguard the public health. The responsible agency official shall give written notice to the Council on Environmental Quality of those actions having a potentially significant individual environmental impact and for which no environmental impact statement is filed because public health considerations require immediate action.

5. By revising § 25.30 to read as follows:

§ 25.30 Public availability of environmental impact statements.

(a) All draft and final environmental impact statements, all environmental impact analysis reports, if required, and all environmental assessment reports, if required, except for such impact statements, reports, or assessments on investigational new drug or investigational new animal drugs that are confidential information under Part 20 of this chapter, shall be available for public inspection through the office of the Hearing Clerk or Public Records and Documents Center.

(b) Draft and final environmental impact statements will be available immediately after preparation. An environmental impact analysis report and an environmental assessment report available under paragraph (a) of this section will be available at the time a draft environmental impact statement is circulated or, if no environmental impact statement is necessary, at the time of publication in the FEDERAL REGISTER of notice announcing the availability of the report.

(c) The agency shall maintain for public inspection on request a list of those agency actions for which draft and final environmental impact statements have been prepared, except for actions regarding investigational new drugs or investigational new animal drugs that are confidential information under Part 20 of this chapter.

(d) Copies of each final environmental impact statement prepared shall be forwarded to those persons who submitted substantive comments on the pertinent draft statements. A final environmental impact statement shall summarize each type of comment submitted on the pertinent draft statement and the Commissioner's conclusions with respect to it.

PART 601—LICENSING

3. In Part 601 by amending § 601.2 by inserting the following sentence before the last sentence of paragraph (a) as follows:

§ 601.2 Application for establishment and product licenses; procedures for filing.

(a) * * * The applicant shall also include an environmental impact analysis report analyzing the environmental impact of the manufacturing process and the ultimate use or consumption of the biological product pursuant to § 25.1 of this chapter.

* * * * *

Effective date. This order shall be effective on May 16, 1977.

(Sec. 102(2)(C), Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); sec. 701, Pub. L. 717, 52 Stat. 1055-1056 as amended (21 U.S.C. 371); secs. 2 et seq., Pub. L. 89-755, 80 Stat. 1296 et seq. (15 U.S.C. 1451 et seq.); secs. 301, 351, 352, 354-360F, Pub. L. 410, 58 Stat. 702 as amended by 81 Stat. 536, 82 Stat. 1173 et seq. (42 U.S.C. 262, 263, 263b-263n).)

Dated: March 24, 1977.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.77-10899 Filed 4-14-77;8:45 am]

federal register

FRIDAY, APRIL 15, 1977

PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

SACCHARIN AND ITS SALTS

Proposed Rule and Hearing

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 145, 150, 172, 180, 189, 310, 430, 510, 589, and 700]

[Docket No. 77N-0085]

SACCHARIN AND ITS SALTS

Proposed Rule Making

AGENCY: Food and Drug Administration

ACTION: Proposed rule.

SUMMARY: The Commissioner of Food and Drugs is proposing to revoke the interim food additive regulation under which saccharin and its salts (saccharin) are currently permitted as ingredients in prepackaged foods, such as soft drinks, and as tabletop nonnutritive sweeteners. The Commissioner is also inviting comments on a proposal to accept and promptly review new drug applications for the marketing of saccharin as a single-ingredient drug, available without a physician's prescription. If approvable under the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), such products would be required to bear a conspicuous warning about the risk of cancer. The Commissioner is also proposing to prohibit the use of saccharin in cosmetics that are likely to be ingested, to amend the standards of identity that provide for the use of saccharin and to prohibit the use of saccharin in animal drugs and animal feed.

The Commissioner's determination that saccharin must be banned as a food additive is based on a series of scientific studies conducted in accordance with currently accepted methods for determing whether compounds can cause cancer. The most recent of these studies, conducted by Canadian scientists under the auspices of the Canadian Government, confirms what earlier American studies have suggested: that saccharin poses a significant risk of cancer for humans. Under these circumstances, conscientious concern for the public health requires that FDA prohibit the continued general use of saccharin in foods.

This conclusion is also dictated by the so-called Delaney clause of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)), which prohibits the use in food of any food additive which has been shown, by ingestion or other appropriate tests, to cause cancer in laboratory animals.

The Delaney clause does not apply to human drugs, however, and it therefore does not prohibit the approval of a drug that has been shown to cause cancer in laboratory animals if the drug provides medical benefits that outweight the potential risk. For many individuals, including diabetics who must limit their intake of sugar and other carbohydrates, the availability of a nonnutritive sweetener, may serve a legitimate medical need. The Commissioner is therefore proposing to permit the submission of new drug applications for the marketing of saccharin as a single-ingredient OTC drug, which applications must be accompanied by legally sufficient evidence of the effectiveness of saccharin for its labeled indications.

DATES: Comments on this proposal may be submitted by June 14, 1977. Published elsewhere in this issue of the FEDERAL REGISTER is a notice of an informal hearing before the Commissioner to be held on May 18 and 19, 1977 to hear oral comments on this proposal.

ADDRESS: Written comments should be sent (preferably in quadruplicate) to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

GENERAL: Ronald J. Wylie, Compliance Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3480.

FOODS: John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

HUMAN DRUGS: Paul Fehnel, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3640.

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SUPPLEMENTARY INFORMATION:

I. SACCHARIN AS A FOOD INGREDIENT

A. HISTORY OF THE USE AND SAFETY OF SACCHARIN

Saccharin is a nonnutritive, artificial sweetener that is approximately 350 times sweeter than sugar. Following the discovery of saccharin in 1879, commercial interest was initially shown in its possible usefulness as an antiseptic or as a preservative to inhibit fermentation in foods, but from the beginning, questions about its safety existed. In 1886, workers in Europe noted no effects in human subjects who had been given single doses of saccharin up to 5 grams. In 1888, a French scientist reported no harmful effects in diabetics who ingested 5 grams per day for 5 months. During the succeeding decade, several reports both endorsing and criticizing the use of saccharin in diabetics noted evidence in some patients of loss of appetite, nausea, and pressure in the stomach. In the meantime, attempts to use saccharin in the treatment of intestinal infections, chronic gastritis, cystitis, and numerous other diseases proved unsuccessful. By 1907, however, canners of fruits and vegetables in the United States had developed an interest in using saccharin to sweeten their products. In 1912, a Board of Scientific Advisors to the Secretary of Agriculture, appointed by President Theodore Roosevelt, concluded that 0.3 gram/day of saccharin was safe and that higher levels of intake, especially above 1 gram/day, caused disturbances of digestion.

In numerous toxicological studies in experimental animals during the period 1920 to 1950, no findings were reported that raised serious questions about the safety of saccharin as then used. In Europe, during World Wars I and II, the consumption of saccharin greatly increased, with no apparent adverse effects among consumers, though no adequate epidemiologic studies were conducted at that time.

Saccharin use today is widespread. Approximately 6 to 7.6 million pounds of saccharin were used in the United States in 1976. It is used in food and beverages, cosmetics, drugs, animal feed, and industrial processes. Food and beverage uses are by far the most extensive, accounting for over 70 percent of the saccharin used.

The soft drink industry accounts for about 74 percent of the saccharin consumed in food and beverages in the United States. Other dietary uses, which account for 14 percent of the saccharin consumed, include powdered juices and drinks, other beverages, sauces and dressings, canned fruits, dessert toppings, cookies, gums, jams, candies, ice cream, and puddings. About 12 percent of the saccharin consumed is as a sweetener in place of nutritive sweeteners (e.g., sugar) in coffee and tea and on cereal.

Although saccharin's predominant use is in foods, it is also used in drugs—both prescription and OTC—especially those intended for pediatric use and for use by diabetics. Saccharin is also found in a variety of cosmetics, including lipsticks, dentifrices, mouthwashes, aftershave lotions, moisturizing skin preparations, hair tonics, skin cleansers, bubble baths, colognes, face powders, and douches. Saccharin is also used to a limited extent in animal feed and animal drugs.

One of the first chronic toxicity studies of saccharin was reported by Pitzhugh et al. in 1951 (discussed below). The findings of that study were inconclusive and there continued to be debate among scientists about the safety of saccharin. Accordingly, in 1955 the Committee on Food Protection of the National Academy of Sciences reviewed the literature bearing on the safety of saccharin and concluded that the "maximum probable tolerance level for saccharin in the human diet is at least as great as 1.0 gram per day." The National Academy of Sciences (NAS) committee further concluded that the substitution of saccharin for the average daily consumption of sugar in the United States would amount to about 0.3 gram of saccharin, and that

"the maximal amount of saccharin likely to be consumed was not hazardous."

Because of greatly increased use of saccharin and cyclamate, another nonnutritive sweetener, as well as drastic changes in the patterns of their consumption during the 1960's, in 1967 FDA requested the National Academy of Sciences again to evaluate the safety of these nonnutritive sweeteners. In response to this request, an ad hoc committee was formed under the NAS Committee on Food Protection. In 1968, the committee issued an interim report in which it concluded that the intake of 1 gram or less per day of saccharin by an adult should present no hazard. However, the committee also recognized at that time that the existing carcinogenesis studies on saccharin, judged by current standards, were inadequate, and it therefore recommended that contemporary studies be undertaken.

During the late 1960's, saccharin was being widely used competitively or in combination with cyclamates. Consequently, when the use of cyclamate was banned by FDA in 1969, it was anticipated that the daily intake of saccharin by users of nonnutritive sweeteners would increase substantially. An ad hoc subcommittee of the NAS Committee on Food Protection was once again requested by FDA to review all available toxicity data on saccharin in the light of the projected sharp increase in use.

The NAS subcommittee issued its final report in July 1970. It arrived at conclusions regarding the safety of saccharin very similar to the assessments of 1955 and 1968. The subcommittee again recommended that chronic toxicity studies, designed according to modern protocols, be completed. It further recommended that: (a) epidemiologic studies should be carried out with emphasis on the diabetic segment of the population and in relation to pregnancy; (b) comparative metabolism studies should be done in man and in animals; and (c) toxicologic interactions with other selected chemicals should be explored.

Although the then existing studies raised some questions about whether saccharin could cause cancer, no firm conclusions could be reached on the basis of those data. In 1972, because of the questions about the safety of saccharin, FDA removed saccharin from the list of substances generally recognized as safe (GRAS) and imposed limits on the use of saccharin to discourage general use by consumers and to inhibit an increase in its use by the general population. At that time, FDA also issued an interim food additive regulation to permit continued limited use of saccharin pending completion of studies to resolve the questions concerning the safety of saccharin. In issuing the interim regulation, FDA concluded that the continued limited use of saccharin did not constitute a significant risk to public health.

II. HISTORY OF SCIENTIFIC AND MEDICAL INQUIRY INTO THE CAUSES OF CANCER

Sir Percival Potts' description, almost 200 years ago, of the relationship between exposure to soot and cancer of the scrotum in chimney sweeps is usually cited as marking the beginning of studies in environmental carcinogenesis (Ref. 1). It was not until the late 19th century, however, that the association between exposure to aromatic amines and the production of bladder cancer among workers in the German dye industry was established, and only in the early part of this century that the production of skin cancer by X-radiation and radium became evident.

Modern research on chemical carcinogenesis dates from the classic studies of Yamagiwa and Itchikawa (Ref. 2). They successfully induced cancer by applying coal tar to the ears of rabbits and thereby produced the first experimental animal analogy of a type of chemically induced human cancer. The work of these Japanese investigators in 1915 was quickly followed by similar investigations in many laboratories and culminated in the isolation from coal tar of the carcinogenic polycyclic hydrocarbon benzo[a]pyrene by Kennaway and Cook (Ref. 3). But it was only in 1938 that Hueper experimentally produced bladder cancer in dogs by administration of β-naphthylamine (Ref. 4).

The known causes of human cancer include physical, chemical, and biological agents. According to Boyland (Ref. 5):

> Reasonable estimates are that not more than 5% of human cancer is due to viruses and less than 5% to radiations. Some 90% of cancer in man is therefore due to chemicals, but we do not know how much is due to endogenous carcinogens and how much to environmental factors. An expert committee (WHO, 1965) has concluded that at least half of all cancer in man is due to environmental factors. It should therefore be possible to prevent a great deal of human cancer by finding and removing chemical carcinogens from the environment.

In 1960, Dr. G. B. Mider prepared for a committee of the United States Congress a summary of the current state of scientific knowledge about the causes of cancer (Ref. 6). Despite major subsequent advances in our understanding of the role of microsomal enzyme metabolism in the action of carcinogens, in molecular biology, in virology, in our knowledge of the immunological aspects of cancer, and in the development of in vitro models for carcinogenesis, the summary of the causes of cancer prepared by Dr. Mider more than a decade ago is still essentially correct:

(1) Although cancer can be caused by extraneous agents, not all members of the exposed population will develop cancer. Those who are most susceptible can be identified only by experience.

(2) Even a powerful carcinogen requires weeks or months to elicit cancer in mice or rats and probably requires years in man.

(3) No change need be recognizable in the organ or tissue destined to become cancerous before the cancer itself appears.

(4) Experience in the laboratory does not predict unequivocally the reaction of humans to the same agent. On the other hand, those few chemical and physical agents known to produce cancer in man, with the possible exception of inorganic arsenical compounds, have elicited cancers in animals.

(5) No one at this time can tell how much or how little of a carcinogen would be required to produce cancer in any human being, or how long it would take the cancer to develop.

(6) The effect of certain chemical carcinogens can be markedly increased by other compounds with little or no carcinogenic power.

(7) The accumulated evidence suggests the irreversibility of the cancerous response once it has been initiated and further suggests a cumulative effect.

(8) The most potent carcinogens, by their very strength, are almost sure to be discovered clinically. It is assuredly the less potent carcinogens that seem most important in human cancer and provide the real problem for evaluation. A major objective of experimental carcinogenesis is, therefore, the bioassay for the presence of weak carcinogens.

(9) Chemical configuration alone cannot be used to predict the ability of a new compound to produce cancer.

(10) Possession (by a substance) of a biological effect, known to be associated with a particular type of cancer production, may be of importance in assessing potential carcinogenicity. Examples are: estrogenic activity, goitrogenic activity, production of liver cirrhosis.

The special attention given to the prevention of cancer is reflected in the Food Additives Amendment of 1958 and Color Additive Amendments of 1960. In principle, both laws recognize that all substances have a potential for harm and that, conversely, there are conditions under which most substances may be used safely. However, both laws also provide that under no conditions are cancer-producing substances to be considered safe. This Congressional expression of concern about cancer-producing agents indicates the need to know about the cancer-producing potential of food additives.

USE OF ANIMAL TESTS TO IDENTIFY RISKS TO HUMAN HEALTH

Testing for acute toxic effects in animals has long been and remains today the primary basis for evaluating the safety of food for humans. Now, however, scientists also test substances in animals to assess their long-term, or chronic effects, including their potential to cause cancer.

The first chronic animal studies were conducted in the late 19th century, after it was found that certain diseases were associated with lack of certain essential dietary constituents. For example, vitamin C deficiency, which leads to scurvy and niacin deficiency, which causes pellegra, were extensively studied in animals after scientists discoverd that these diseases could be mimicked in animals. After it became apparent that laboratory animals were useful in studying nutritional diseases, scientists quickly concluded that animal experience might also be useful in predicting the long-term effects in man of ingestion of small amounts of chemicals. In the early 1930's, FDA scientists initiated some of the first long-term, or lifetime chronic feeding studies on substances to which humans are exposed. These studies—on lead arsenate pesticides—led, in 1940, to the establishment of limitations on the use of lead arsenate.

Since these early days of toxicology, the use of tests in laboratory animals to predict the long-term chronic effects of chemicals in man has been accepted by virtually all scientists and is today used by every technologically advanced country in the world. In the United States, many Federal agencies in addition to FDA, such as the Environmental Protection Agency and the National Cancer Institute, rely on these animal tests to assess the safety of a variety of compounds. In 1954, the National Academy of Sciences/National Research Council (the Academy) published a report entitled "Principles and Procedures for Evaluating the Safety of Intentional Chemical Additives in Foods." This report updated pamphlets published in 1951 and 1952 on the safe use of chemicals in foods. The 1954 report and subsequent publications by the Academy describe the widely accepted approach of animal tests for evaluating the safety of chemicals added to foods. The World Health Organization has also espoused the use of animal tests to assess the safety of food ingredients.

The difficulty of identifying chemicals that may cause cancer has been considered may times in the last 15 years, and distinguished expert committees of the World Health Organization, Food and Agricutural Organization, National Academy of Sciences/National Research Council, and Department of Health, Education, and Welfare, as well as FDA, have published reports setting down principles and guildelines. Again the accepted test model is the chronic test in laboratory animals. As Berenblum (Ref. 8) has pointed out, our existing knowledge does not provide a basis for firm agreement on the optimal conditions for carcinogenicity testing, but merely allows the setting down of minimal requirements for animal tests for carcinogenicity. These minimum accepted requirements include: (1) more than one species of animal should be used to demonstrate lack of carcinogencity; (2) continuation of testing for the "practical" lifetime of the animals to establish a negative finding; (3) use of test doses close to the pharmacologically active range, several orders of magnitude above the actual use level; (4) maximization of numbers of animals on test, recognizing the practical limitations on population size; (5) use of routes of administration analogous to those by which humans will be exposed; and (6) whenever possible, commencing exposure during pregnancy and continuing exposure in the offspring for a lifetime. The three principal tests of saccharin on which the Commissioner is basing the accompanying proposals generally meet these basic criteria.

Even with the best test system, it must be recognized that a positive result only labels a substance as a suspect human carcinogen; at the same time, a negative result does not necessarily exclude the possibility that the substance is carcinogenic for man. Furthermore, it should be remembered that absolute demonstration of noncarcinogencity, even in the species tested, is impossible. As J. Cornfield has indicated:

> Expression of results as confidence limits rather than as a test of significance is to be preferred, since even when the lower confidence limit is below zero and no positive evidence exists, the upper limit may well be above zero, and this will serve as a constant reminder that failure to uncover positive evidence of carcinogenicity is not the same as a positive demonstration of noncarcinogenicity (Ref. 9).

Questions are frequently raised about the signficance of carcinogensis observed in animal experiments based on the belief that the high dosages to which animals are customarity exposed have no relevance in the assessment of human risk. Indeed, such questions have been raised about the findings in the WARF, FDA, and Canadian studies that saccharin causes bladder cancer. The Commissioner therefore believes that it is important to clarify this crucial issue.

It should be recognized that, general, only high dosages will produce tumors in animals under the experimental conditions that must customarily be employed. In setting up model experimental systems, scientists have no choice but to use relatively small numbers of animals in comparison to the human population likely to be exposed. In order to obtain meaningful, consistent, and reproducible results, studies must be designed to produce a significant number of cancers in the animals under test.

Even as low an incidence of cancer as 10 percent in a group of 100 experimental animals, which would approach the limit of reproducibility, would exceed any acceptable human risk. An incidence of 0.01 percent would represent 20,000 out of the total U.S. population of 200 million, and would certainly be considered unacceptably high. But to detect such a low incidence in experimental animals using dosage levels comparable to those administered to humans would require literally tens of thousands of animals. For this reason, scientists administer large doses to relatively small groups of experimental animals and then extrapolate the results to estimate the risk of cancer at low dosages.

Several methods for making such calculations of risk have been employed, but based on present knowledge and experience, the Commissioner believes the proper conservative approach is to assume a direct proportionality between the size of the dose and the incidence of tumors. For example, if a daily dosage of 1 gram per kilogram (kg) fed to experimental animals over a 2-year period produces a 10 percent incidence of tumors, FDA would assume that there would be a 1 percent incidence with 0.1 gram per kg dose, or a 0.1 percent incidence with a 0.01 gram per kg dose. Using this method of calculation, the agency would estimate, conservatively, that if a substance produces a 10 percent incidence of cancer in the rat at a dose of 1 gram per kg, it would produce a 0.01 percent incidence, representing 20,000 persons out of a total population of 200 million, if ingested by man at a dose of 1 milligram per kg.

It is important to recognize that such calculations may indicate only a minimal risk. Experimental assays are conducted under controlled dietary and environmental conditions with animals of homogeneous genetic background, while humans live under diverse conditions and are genetically heterogeneous, and are therefore likely to include subpopulations of unusual susceptibility.

Another popular misconception about the use of high dosages in animal carcinogenesis testing is the belief that any substance will induce cancer in animals if fed at sufficiently high levels. Excessively high levels of most substances can induce toxic effects in animals, but only a small number of such substances can produce cancer. This fact is illustrated by a study of 120 pesticides and industrial chemicals reported by J. R. M. Innes, et al. (Ref. 10). The compounds were selected on the basis of toxicity evidence suggesting potential harm to man, widespread use, or chemical structure suggesting possible carcinogenicity. In this study, both sexes of 2 hybrid strains of mice were orally administered maximum tolerated doses of the 120 test compounds starting at the age of 7 days. The authors found that administration of only 11 of the compounds unequivocally induced a significantly elevated incidence of tumors.

D. CARCINOGENICITY TESTING OF SACCHARIN

The first long-term study to evaluate the chronic toxicity of saccharin in the diet of rats was reported at FDA in 1951 by Fitzhugh, Nelson, and Frawley (Ref. 11). Various levels of saccharin were fed, some as high as 5 percent of the diet, to 10 male and 10 female rats per dosage level. At the conclusion of the study, the authors reported:

> No pathological effect whatever could be attributed to saccharin at levels of 1.0 percent or less. At 5 percent only one effect was noted, in the latter part of the experiment, namely an increased incidence of the ordinarily uncommon condition of abdominal lymphosarcoma. In the 5 percent group there were seven animals with lymphosarcomas; this number is not out of line with the incidence in comparable groups of rats, but the fact that in four of the seven rats abdominal as well as thoracic lymphosarcomas were present is unusual, since ordinarily the ratio is about 1 to 15–20. Three of these four combinations occurred in animals on experiment one hundred and two or more weeks.

In 1969, FDA pathologists reevaluated the findings from the Fitzhugh study (Ref.12). They concluded:

> The only effect of treatment during life was retardation of growth at 5 percent. In regard to pathological changes, our diagnoses of individual lesions were almost identical to those of Dr. Nelson. However, there were differences of opinion as to the role played by saccharin. Dr. Nelson stated in his 1951 report and also in the paper previously mentioned that the only pathological effect of saccharin was an increase in the incidence of the ordinary uncommon condition of abdominal lymphosarcoma. While we were not impressed by this, our examination of the written data and the microslides led us to conclude that saccharin had induced 2 lesions, and possibly a third. (1) Papillary excrescences from the papilla and papillocalyceal junction of the kidney in 13 of the 17 rats with kidneys sections microscopically

at 5 percent, 3/18 at 1 percent, and 1/15 at 0.5 percent. The papillary excrescences were the result of edema, vascular congestion, leukocytic infiltration, and fibroblastic proliferation of the stroma, stratification of the normally simple cuboidal epithelium to the stratified cuboidal or transitional type, calcium deposition, and in a few instances, phlebothrombosis. (2) Increased cellularity of the bone marrow at 5 percent. (3) While we have presented evidence which suggests that saccharin may have increased the incidence of the malignant lung tumor, lymphosarcoma, which occurs spontaneously in the rat and was very common in FDA rats at the time this study was performed, the data are inconclusive. A consideration of this, the presence of the renal changes, and the lack of knowledge as to whether the urinary bladder was affected strongly suggest the need for another two-year experiment.

A second long-term test of saccharin by oral administration to rats was completed in 1959 by Lessel (Ref. 13). As in the earlier Fitzhugh study, rats were fed saccharin for 24 months at levels up to 5 percent of their diet. Twenty male and 20 female rats were used per group. Lessel included a positive-control group to determine the susceptibility of his rats to the development of this tumor type, which he felt resembled the lymphosarcomas noted by Fitzhugh et al. Lessel found this type of tumor among the various tumors noted in both controls and treated animals; however, he did not find the incidence of tumors in the rats to be altered by the presence of saccharin in the diet even at the highest level (5 percent) fed.

In 1969, a re-study of the urinary bladders of some rats from the Lessel study was undertaken; however, all of the rats were not examined and the procedure used in the fixing of the urinary bladders would not be regarded as adequate by qualified experts. On gross observation of the rats, bladder abnormalities were noted at all feeding levels. Five males and three females at the 5-percent level exhibited these abnormalities. The author concluded that saccharin promoted the formation of bladder stones which in turn led to the bladder lesions (Ref. 14).

In 1970, at the request of FDA, the previously described studies and other data on the safety of saccharin were evaluated by NAS/NRC. At the conclusion of its review, the Academy made the following recommendations:

> Long-term studies designed according to present-day protocols and including adequate investigation of effects on reproduction should be completed in at least two species. In view of the concern about effects on the kidney and urinary bladder, special attention should be given to pathological examination of these organs.

Based on the data available in 1970, the Ad-Hoc Subcommittee on Nonnutritive Sweeteners of the NAS Committee on Food Protection accepted 1 percent as a "no-effect" level of saccharin in the diets of rats and mice (Ref. 15).

Between 1970 and 1975, additional lifetime chronic feeding studies of saccharin were conducted in which the compound was fed to laboratory animals either at a single- or multiple-dose level. These studies were carried out in a variety of laboratory animals including rats, mice, and hamsters. Two of these modern studies yielded notable and troubling results. In both of these studies, diets containing saccharin were fed to male and female rats from weaning. At the proper age, these rats were bred and their offspring carried to lifetime. Thus, these offspring were exposed to saccharin in their diets from the time of conception until death. These two studies were conducted by FDA and in the laboratories of the Wisconsin Alumni Research Foundation (WARF).

The FDA study fed doses of 0.01, 0.1, 1, 5, and 7.5 percent saccharin to the laboratory animals. There were 50 males and 50 females in each dose group and 100 control animals (animals not fed saccharin). The study was terminated when the number of survivors in a test group fell to 20 percent of the starting number. Serial sacrifices were performed at 14 and 18 months. Of the 23 males fed the saccharin diet at the 7.5-percent level which were examined, 7 developed bladder tumors. No tumors were found at lower saccharin levels, but 1 of 25 males examined fed the control diet developed a bladder tumor. Of the female rats, bladder tumors were found in 2 of 31 examined animals fed the 7.5-percent diet. None were found in the control females nor in female rats fed the 5-percent or lower levels of saccharin.

The WARF study followed essentially the same protocol as the FDA study, except there were 20 males and 20 females per group and the study was terminated at 100 weeks. In the WARF test, bladder tumors were found in 7 of 15 male rats fed the diet containing 5 percent saccharin. No bladder tumors were found in the female rats at any level of saccharin feeding.

In the FDA study, the rats fed the higher dose levels (5.0 and 7.5 percent) tended to grow less well than did controls or those fed lower levels of saccharin; a body-weight deficit of about 15 percent prevailed throughout the test period. All other measurements of well-being were normal, however, including survival and organ weight/body weight ratios. In the WARF test, the high level (5 percent) saccarin-fed rats lagged behind the other groups during the period of rapid growth, but as adults revealed no difference in body weight. Indeed, the control group was the lightest among the males on test, but the weight range among the various groups was remarkably narrow.

The high dietary sodium ($Na+$) level introduced by feeding high levels (5 to 7.5 percent) of sodium saccharin (about 11 percent $Na+$) was taken into account in the FDA study by adding an equivalent level of $Na+$ as Na_2CO_3 to the diet of a group of rats fed the basal (no saccharin) diet. However, no test was made of $Na+$-free saccharin as opposed to soluble saccharin. This is an important issue, since, for example, the metabolic disposition of saccharin may be altered by higher $Na+$ levels; the question is not accounted for by the Na_2CO_3 control, nor is it clear whether carbonate is an appropriate anion for this particular study.

As previously explained, the rationale of animal testing for possible carcinogenic hazards to man contemplates maximizing the sensitivity of the bioassay system, requiring administration of the highest tolerable dose along with appropriate lower doses. Because saccharin has a low toxicity, dose levels as high as 5 to 7.5 percent of the diet were fed in the FDA and WARF studies. As of 1974, tumors had been associated with saccharin feeding only at these high levels and in only two of many studies—those conducted by FDA and by WARF. This result raised uncertainty as to whether saccharin itself was the carcinogen, or whether the bladder tumors were induced by an impurity in the saccharin (orthotoluenesulfonamide) that was present at a detectable dose when high levels of saccharin were fed.

In addition, the high levels of saccharin fed were thought to raise the problem of calculus formation (Ref. 16). Calculi were associated with the occurrence of bladder tumors in the study by Hicks et al., (Ref. 17). Orthotoluenesulfonamide is a carbonic anhydrase inhibitor which can increase urinary pH, predisposing to calculus formation. Clayson found that bladder tumors due to certain sulfonamides were eliminated by feeding NH_4Cl to give an acid urine (Ref. 18). Furthermore, saccharin alone may cause bladder calculi (Ref. 19). This was thought to be potentially important, because there is evidence that bladder stones may play a determining role in the appearance of bladder tumors in the rats. Occurrence of bladder stones and increased urinary pH associated with saccharin feeding were not investigated in the FDA or in the WARF study. It was thought that this phenomenon may be critical in the embryo or newborn rat that is exposed to saccharin.

It should be emphasized that in both the FDA and WARF tests the offspring (F_1) generation of rats, i.e., those that were conceived after the parental generation had been placed on the saccharin-containing diets, were held and observed for manifestation of toxicity. The relatively high sensitivity of experimental animals to transplacental exposure to carcinogens has become obvious in recent years (Ref. 20). A number of carcinogens have been shown to be effective at very low levels by the transplacental route. Frequently, exposure of the pregnant female is associated with the relatively early appearance of tumors in the offspring. Despite these important implications, information about transplacental carcinogenesis is limited. For example, the dose level to which the fetus is exposed is often unknown, nor is there an understanding of the importance of developmental state, metabolic capacity, immune competency, and factors related to fetal pharmacology.

Even with these uncertainties, however, the F_0—F_1 feeding procedure is considered to be an appropriate and essential test because saccharin may be consumed by pregnant women as well as in-

dividuals of all ages. The technique of in utero exposure in lifetime testing has been recommended by an expert on carcinogenesis of the FDA Advisory Committee on Protocols for Safety Evaluation. J. Tox. and Appl. Pharmacol., 20:419–438 (1971). The panel recognized that exposure of an animal to a chemical early in life, even during pregnancy, may be important in influencing expression of carcinogenesis later in life. The panel stated that "since one of the important purposes of the chronic toxicity tests is the detection of carcinogenic potential, it would seem desirable to begin the exposure as early in life, i.e., as close to conception as possible."

The International Agency for Research on Cancer of the World Health Organization (IARC Scientific Publications No. 4) has also endorsed the need to consider in utero exposure in the study of carcinogenesis potential. The IARC report noted that "experimental studies have indicated the increased susceptibility of neonatal animals to the carcinogenic insult. The logical development of studying the effect on the rodent fetus of maternal exposure to a chemical carcinogen has made it clear that this pathway could well be operative in the human fetus."

Unfortunately, in neither the WARF study nor the FDA study were the rats in the parent (F_0) generation continued for long-term carcinogenicity testing of saccharin; thus no comparative data on the susceptibility of F_0 and F_1 rats in an internally controlled experiment were obtained. Therefore, at the conclusion of these studies, doubt remained about whether the concurrence of transplacental exposure and of bladder tumors was causally related.

Because of the continuing questions about the carcinogenicity of saccharin, in June 1972, FDA once more called upon the Academy to review the results of all experiments on the issue. To be able to provide FDA with a complete and up-to-date report, the Academy delayed completing its review until several studies, including the FDA study, then underway, were completed.

The Academy's report was received by FDA in December 1974. The report's primary conclusion was that the data then available had "not established conclusively whether saccharin is or is not carcinogenic when administered orally to test animals." This conclusion was based in part on the uncertainty about the role of orthotoluenesulfonamide (OTS) in the induction of tumors. The Academy recommended that additional research on saccharin be conducted to determine whether saccharin is a carcinogen. The Academy recommended further that FDA reconsider the question when a substantial portion of the additional data became available.

E. CANADIAN STUDY

The recently reported Canadian study was initiated in February 1974 under the sponsorship of the Department of Health and Public Welfare of the Canadian Government (Toxicity and Carcinogenicity Study of Orthotoluenesulfonamide and Saccharin, Project E405/405E). Two generations of test animals (the F_0 and F_1 generations) were fed OTS and OTS-free saccharin to evaluate the toxicity and carcinogenicity of these compounds. The study on saccharin was the third experiment in which rats were exposed to saccharin during their period of development in the uterus and then throughout their entire life span. Both the earlier FDA and the WARF studies had shown an increased incidence of bladder tumors in male rats, but had left unresolved the question whether the tumors were caused by saccharin itself or by OTS. The Canadian study was designed to clarify this question by testing the OTS by itself as well as by testing purified saccharin containing only minimal amounts of the impurity. The Canadian study was thus designed to resolve the uncertainties noted by the NAS in its 1974 report.

Six groups of 50 male and 50 female rats were included in the study: a control group, 3 dose levels of OTS at 2.5, 25, and 250 milligrams per kilogram per day, a group receiving 5 percent saccharin (2,500 milligrams per kilogram per day) in the diet, and a group receiving 250 milligrams per kilogram OTS per/day and 1 percent ammonium chloride in the drinking water. The doses of OTS incorporated the amount of OTS, ranging from 0.6 to 27 milligrams per kilogram OTS per day, which may have been consumed by animals in the FDA and WARF studies on saccharin. OTS, a weak carbonic anhydrase inhibitor, may have a tendency to produce a slightly alkaline urine, possibly resulting in an increased incidence of bladder stones. Therefore, ammonium chloride was added to the drinking water of one OTS group to prevent this effect by producing a more acidic urine. The rats were observed daily, their weights and food consumption were recorded weekly, and 20 males of each generation of controls, saccharin treated, and high-level OTS treated animals with and without ammonium chloride had urine examined at 6-month intervals for microscopic calculi and parasite eggs.

The results of the Canadian study have been evaluated by expert pathologists, including scientists from FDA and other institutions in the United States, from Great Britain, and from other European countries, as well as from Canada. The findings indicate unequivocally that saccharin causes bladder tumors in the test animals. Specifically, 7 male and no female rats in the F_2 generation developed bladder tumors. Twelve male and two female rats in the F_1 generation developed bladder tumors. Thus, of a total of 200 rats fed saccharine, 21 developed bladder tumors.

In sharp contrast, of 100 control animals—those not fed saccharine or OTS—only 1 developed a tumor. Moreover, the low incidence of tumors in the animals fed OTS clearly resolves the earlier speculations, based on the FDA and WARF studies, that OTS and not saccharin may have been responsible for the cancers in the test animals. No evidence of bladder parasites was found in any of the rats. Microscopic crystals were found in the urine but the distribution did not seem to be related to treatment. Two grossly visible bladder stones were found in rats bearing tumors, one receiving saccharin and the other receiving OTS, while six were found in animals of various groups without bladder tumors. There was no significant increase in bladder tumors in any of the group treated with OTS.

F. ASSESSMENT OF HUMAN RISK

An important question raised about the animal studies on saccharin is their relevance to human beings. Public reaction to recent publicity about the Canadian study suggests considerable misunderstanding about the nature of toxicity testing in animals and the interpretation of results. For example, it has been widely publicized that the dose of saccharin found to be carcinogenic in rats is about 1,000 times that ingested by a human in a single diet beverage (when both doses are adjusted for the difference in body weight between rats and humans). Since this amount of saccharin would clearly never be ingested chronically by any person, some have suggested that these results have no pertinence whatsoever to human risk. In the judgment of FDA, this conclusion is not valid for the reasons to be described in this section.

Before dealing with the saccharin data specifically, however, the principles of appraising the risk of chemical carcinogenic substances should be explicitly stated. Those principles are as follows:

1. Certain substances can be shown in validly controlled animal experiments to increase the incidence of benign and/or malignant tumors. This result does not occur with all chemicals, only with certain ones.

2. Those substances that cause benign or malignant tumors in one species often also do so in other species. Therefore, any substance that causes such tumors in any species must be considered a potential carcinogen in man.

3. Chemical carcinogens, like other toxic substances, generally demonstrate a dose-response relationship, i.e., the the greater the dose the greater the tendency to produce tumors, and vice versa. The predominant opinion among experts in the field of carcinogenesis is that the dose-response principle extends to very low doses of the carcinogen—that is, that there is no dose, however small, at which one can be certain there is no risk. In other words, there is no threshold dose below which a carcinogen may be considered safe in the absolute sense.

4. Estimation of the risk of a low dose of a carcinogen in animals requires that one test the carcinogen at a dose high enough to produce tumors in the group of animals tested and then calculate what the risk is likely to be at a very small dose. The intent of animal testing is not only to identify potential risks such as carcinogenesis but also to estimate whether such an effect is likely to occur with a frequency, e.g., of 1 in 100, 1 in

1,000, 1 in 10,000, 1 in a 100,000, 1 in a million, etc. Since the actual measurement of a single event once in, e.g., 1,000 times, requires several thousand animals, it is evident that direct measurement of low frequency events cannot feasibly be done because of limitations on cost, the difficulty of handling large numbers of animals, etc. The problem is thus currently solved, albeit imperfectly and not without difference of opinion among experts, by conducting tests with a feasible number of animals at high doses and extropolating the results to low doses.

5. The method of extrapolation of results obtained at high doses to low doses should be a "conservative" method, i.e., it should err in the direction of overstating risk rather than understating it. Two accepted methods that meet this principle are the linear extrapolation method and the Mantel-Bryan procedure. In the dose range under consideration, the two methods give similar results for saccharin. The linear extrapolation method has been used in the FDA calculation on saccharin because it is easier to explain and understand.

6. The results of animal tests and their extrapolation to low doses provides an estimate of the risk of developing a tumor in the species tested. If one is to assume that such results are directly applicable to man, one must assume that one lifetime in the test animal is equal to a lifetime in man and that the test animal and humans are equally sensitive to the carcinogen. These assumptions are clearly open to debate, but in the absence of data to the contrary, the opinion of most experts is to assume that they are applicable. In the case of some carcinogens, wide variation among species in their sensitivity to the chemical has been demonstrated. The current view of experts is that these differences are due, at least in part, to species differences in the way the carcinogen is metabolized. In the case of saccharin, the drug is metabolized little, if at all, in either the rat or man. This fact supports the assumption that results from testing in rats are applicable to human risk assessment. The FDA risk estimates are then based on the principle that risk estimates in the rat are directly applicable to man.

Current scientific methods are not capable of determining the exact risk to humans of a chemical found to be carcinogenic in animals. However, techniques are available for estimating the upper limits of the risk. The Food and Drug Administration estimates that the lifetime ingestion of the amount of saccharin in one diet beverage per day results in a risk to the individual of somewhere between zero and 4 in 10,000 of developing a cancer of the bladder. If this risk is transposed to the population at large and if everyone in the United States drank one such beverage a day, this would result in anywhere between zero and 1,200 additional cases of bladder cancer per year. These estimates are identical to the estimates recently presented publicly by representatives of the Food and Drug Administration and of the National Cancer Institute (NCI) in hearings before the Health Subcommittee of the House Committee on Interstate and Foreign Commerce. The approach used in their calculation is described in the following paragraphs.

In the Canadian study, a 24 percent incidence of bladder tumors (12 of 50) was noted in the second generation male rats fed saccharin in a dose of 5 percent of the diet. This was the most sensitive group in the study to the carcinogenic effect of saccharin. Thus, in the absence of evidence that factors involved in its sensitivity are not relevant to the human population, this group is used to estimate the upper limit of human risk. There were no bladder tumors in an untreated control group of comparable size. Although the observed incidence of bladder tumors was 24 percent, the upper limit of risk in this study at the 95 percent confidence level is 36 percent. A 5 percent dietary level of saccharin in the rat is equivalent to 2,500 milligrams/kilogram/day of saccharin. If a 60-kilogram human (approximately 132 pounds) were to ingest 150 milligrams/day of saccharin (i.e., 2.5 milligrams/kilogram/day over a lifetime, he or she would thus receive the equivalent of one one-thousandth of the rat dose per day. This dose is approximately that contained in one large diet beverage drink (12½ ounces) per day.

Since rats fed 2,500 milligrams/kilogram/day may have as high as a 36 percent incidence of bladder tumors, ingestion by rats of one one-thousandth of that dose could yield, by linear extrapolation, an incidence of 0.036 percent or 4 cases per 10,000.

The lifetime risk of bladder cancer in humans in the United States is 1.5 percent; that is, of every 10,000 persons, it is expected that 150 will develop bladder cancer sometime during their lives. Extrapolating from the Canadian rat study, and if one assumes a direct correlation between the estimate of maximum risk of saccharin in rats and in humans, if a human ingests 150 milligrams/day of saccharin for a lifetime, he could increase the risk of bladder cancer by 0.036 percent, for a total risk of approximately 1.54 percent. That is, of every 10,000 persons, 154 might develop bladder cancer (if they all use 150 milligrams/day of saccharin) and if the assumptions are valid.

The risk from use of 150 milligrams/day of saccharin over a lifetime can be assessed in another fashion. The annual case rate of bladder cancer in the United States is given by the NCI as approximately 30,000. If everyone in the United States ingested 150 milligrams of saccharin per day (e.g., from one large diet drink) over a lifetime, and if the other assumptions are correct, there could be approximately an additional 1,200 cases per year (or an increase in risk of 4 percent over the basal risk). If only half the population ingested 150 milligrams of saccharin per day over a lifetime, an additional 600 cases per year could occur (or an increase in risk of 2 percent over the basal risk).

The estimated increase risk from this moderate use of saccharin cannot be detected in human epidemiological studies. Such studies usually can only detect increased risks of 200 to 300 percent (i.e., 2 to 3 times the baseline rate) or greater. Even the best feasible epidemiologic study is not likely to detect an increased risk of only 2 to 4 percent over background incidence. Thus, for example, the author of one epidemiological study of bladder cancer in consumers of artificial sweeteners (Kessler, I. I., J. Urology, 115:143–146, 1976) noted that "The sample sizes used here would permit the detection of an 80 percent increase in bladder cancer owning to nonnutritive sweetener use * * *." This study would not, then, have detected any increase in bladder cancer due to saccharin consumption if the risk is at the level suggested by the Canadian study in rats.

As discussed previously, cancer has a long latent period, requiring 5 to 30 years before it can be detected. Although saccharin has been used in food for over 70 years, it is only in the past 15 to 20 years that its use has become substantial. Thus, it is probably too early to ascertain from human epidemiological studies the number of bladder cancers associated with saccharin consumption. This conclusion was reached by the authors of one of the epidemiological studies on saccharin (Armstrong, B. and R. Doll, Brit. J. Prev. Soc. Med., 28:233–40, 1974) who pointed out that "If the minimum time necessary to see a significant number of bladder cancers induced by saccharin were more than thirty years * * * it would be too early to see an effect of saccharin consumption on mortality rates."

In a third epidemiological study on saccharin consumption (Armstrong, B. et al., Brit. J. Prev. Soc. Med., 30:151–157, 1976) only about 600 of the diabetics studied had consumed saccharin for more than 25 years. This number is far too low to detect the level of risk from saccharin consumption suggested by the experiments in rats. The fact that these epidemiological studies in patients with diabetes who used saccharin for prolonged periods revealed no detectable increased in bladder cancer is therefore compatible with the available animal data. A common feature of all three epidemiological studies is their comparative insensitivity, which could permit a sharply increased incidence of bladder cancer attributable to consumption of saccharin—on the order of more than 20,000 cases per year in the American population—to go undetected.

By contrast, the risk of lung cancer from cigarette smoking (which FDA has no authority to regulate) is now readily detectable in human epidemiological studies. However, even though cigarette smokers have been shown to incur a risk of developing lung cancer that is 500 to 2,000 percent greater than the risk of lung cancer incurred by nonsmokers, depending on how much they smoke, it

took many years to recognize and document the increased risk. The first suggestions of an association between cigarette smoking and lung cancer were not made util the late 1930's (Muller, F. H., Z. Krebsforsch, 49:57–84, 1939). Several epidemiological studies reported an association between cigarette smoking and lung cancer in the early 1950's, but widespread acceptance of the relationship did not occur until publication of the 1964 report to the Surgeon General entitled Smoking and Health.

The Food and Drug Administration thus considers the animal data and the human epidemiological data on saccharin to be compatible. The estimated excess risk to the individual of developing bladder cancer from lifetime use of, e.g., 150 milligrams of saccharin per day, is believed to be somewhere between zero and 4 per 10,000. The estimated population risk in the United States, assuming such use by each individual, is somewhere between zero and 1,200 cases per year.

Although the risk from consumption of saccharin is small compared to that of other health hazards, e.g., cigarette smoking, saccharin is only one of a potentially large number of hazards present in our environment. The Commissioner believes that reduction of prolonged, general exposure to a number of weakly carcinogenic substances in our environment as they are discovered may be essential to reduce the total incidence of cancer.

G. LEGAL BASIS FOR ACTION

Press reports of the announcement of FDA's intention to withdraw approval of saccharin as an ingredient in foods and beverages have given the impression that the Commissioner is acting reluctantly, based exclusively on the Delaney anticancer clause of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348 (c)(3)(A)) and, further, that the agency's action was triggered solely by the findings of the Canadian study. Neither impression is accurate.

As should be clear from the foregoing discussion, questions about the safety of saccharin have persisted almost from the date of its introduction. Serious doubt about its potential for causing cancer in laboratory animals arose much later, but this concern, too, is not new. Before the Canadian study, two scientifically sound and generally well-conducted studies had suggested an association between saccharin and bladder cancer in animals exposed to high doses of the sweetener. The Canadian study unequivocally confirms this association and lays to rest speculation that the causative agent may have been OTS. There can no longer be any doubt that saccharin causes a sharply increased incidence of bladder cancer in test animals.

The discussion in the previous section makes clear that the human risk of cancer indicated by these findings is significant and cannot be ignored. The Commissioner believes that conscientious protection of the public health is not consistent with continued general use in foods of a compound shown to present the kind of risk of cancer that has been demonstrated for saccharin—regardless of the asserted benefits of its use for some individuals in the population.

Section 409(c) of the act (21 U.S.C. 348(c)) requires that any food additive must be found to be safe for human consumption before it can be approved or, in case of an additive already approved, continue to be used in foods. Based on the accumulated evidence of hazard associated with ingestion of saccharin, culminated by the Canadian study, the Commissioner concludes that the finding required by the statute can no longer be made, and that the interim food additive regulation approving the use of saccharin should be repealed.

FDA has previously prohibited the use in food of ingredients found to cause cancer in laboratory animals to which the Delaney clause was not applicable. For example, in January 1950, before enactment of the Delaney clause, FDA prohibited the use in food of two artificial sweeteners as "poisonous substances." This conclusion was based in large part on the finding of liver tumors in rat studies. In May 1968, FDA prohibited the use in food of the flavoring agent, oil of calamus, based on a finding of carcinogenicity in animal studies. Oil of calamus had been used in food on the determination that it was generally recognized as safe; thus, the Delaney clause did not apply. There are a number of other examples. In short, although FDA has acted on a number of occasions to remove carcinogenic substances from the food supply during the past 25 years, only two previous actions—both involving minor indirect food additives—have been based on the Delaney clause.

Those actions, like this one, were based on certain well-recognized postulates about chemical carcinogenesis: (1) there is reason to believe that those substances which cause cancer in animals may also cause cancer in man; (2) animal tests, despite inadequacies, provide the best evidence currently available about the potential of chemicals to cause cancer in humans; (3) there is no reliable basis for concluding that there is a completely "safe" level of a carcinogen, i.e., a threshold level that will not cause cancer in some members of the population; and (4) cancer appears to be an irreversible process, in both test animals and in man.

It is of course true that the present law would afford the Commissioner no choice but to prohibit the marketing of saccharin as an ingredient in foods even if he were not persuaded that the scientific evidence independently warranted such action. The Delaney anticancer clause specifies that "[N]o additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal, or if it is found, after tests which are appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal * * *." (21 U.S.C. 348 (c)(3)(A).) There can no longer be any question that saccharin does cause cancer when ingested by laboratory animals, in this instance in tests that the Commissioner would in any event regard as appropriate for the evaluation of carcinogenicity.

Therefore, under both the general safety requirement of the Food Additives Amendment of 1958 and the Delaney anticancer clause, the Commissioner concludes that saccharin may no longer be approved as a food additive. This proposal is issued to comply with the procedural requirements of section 409(h) of the act. The Commissioner welcomes comments on any facet of this proposal, including the reasonableness of his judgment about the safety of saccharin under the law. He feels constrained to point out, however, that the wisdom of the Delaney clause is not at issue in this proceeding. FDA could not ignore that provision even if the Commissioner were persuaded that the risks to human health were less than they appear. He further notes that under the provisions of the law relating to food additives, FDA is not empowered to take into account the asserted benefits of any food additive in applying the basic safety standard of the act.

The Commissioner does recognize, however, the potential medical value of permitting saccharin to remain available for individuals who may depend on a nonnutritive sweetener to maintain a diet free from sugar, provided such products can meet the standards of the drug provisions of the act. This subject is addressed in the following part of this preamble, on which the Commissioner specifically invites comments from specialists in the treatment of diabetes and obesity.

II. USE OF SACCHARIN IN DRUGS

A. HISTORY OF DRUG USE OF SACCHARIN

In addition to being used in foods, saccharin has been used in drugs for a number of years as a sweetening agent to improve the taste of oral drug products. Thus saccharin is used extensively in such drugs as pediatric liquid preparations, chewable tablets, and mouthwashes and toothpastes with drug claims. When used as a sweetener in a drug product, it is usually used in conjunction with a nutritive carbohydrate sweetener, such as sucrose or sorbitol, to mask the bitter aftertaste often experienced with saccharin. Saccharin is a pharmaceutical aid in liquid pediatric products where palatability is important to induce small children to take the medication. The volume of sucrose needed to provide acceptable levels of sweetness in some of these products has posed problems of incompatibility in the formulation in certain products.

The quantity of saccharin used as a flavoring agent in drug products covers a wide range. For example, of 12 penicillin V potassium products for oral suspension that were examined, the concentration of saccharin ranged from a low of 5.2 milligrams per teaspoonful to a high of 42.8 milligrams per teaspoonful. If a pediatric liquid oral preparation contains 40 milligrams of saccharin per teaspoonful (one dose) and the maxi-

mum daily dose is 2 teaspoonfuls four times a day, a child could consume 320 milligrams per day of saccharin from this one drug. Obviously, if other products containing saccharin were also being consumed, the daily intake of saccharin would be much higher. It should also be noted that drug products can be used for both the treatment of acute and chronic conditions. Thus, if a drug product containing saccharin is administered daily for the treatment or prophylaxis of a chronic condition, such as rheumatic fever, the patient could be exposed to a daily amount of saccharin equivalent to that contained in one or more diet soft drinks.

Saccharin is also marketed in tablet, powder, and liquid forms as a so-called "tabletop sweetener" for use in conditions in which nutritive carbohydrate sweeteners in the diet must be avoided. Certain of these products meet the statutory definition of a drug in that they are recognized by the U.S. Pharmacopoeia or the National Formulary. In addition, they have at one time or another been tacitly recognized by FDA as drugs. In recent years, however, such products have been marketed and regulated as food additives.

In light of the recent Canadian study's unequivocal demonstration that saccharin causes malignant bladder tumors in test animals, the Commissioner has examined the use of saccharin in drug products, both as an inactive ingredient and as an active ingredient. In his judgment, the safety considerations involving the use of saccharin in drug products differ from those regarding its use in foods. Moreover, the Delaney clause does not apply to drug products. An ingredient that is clearly unjustified for general use in foods for humans may be suitable for use as a drug when there is a legitimate medical need that outweighs the risks of possible adverse effects. The Commissioner is thus permitted under the drug provisions of the law to evaluate the risk of using saccharin compared to the benefits of its use as a drug ingredient.

B. Saccharin As An Inactive Ingredient in Drug Products

With respect to the use of saccharin as a pharmaceutical aid, the Commissioner has tentatively concluded that the risk of such use in most drug products is not outweighed by the benefits, and thus, saccharin will not be permitted as an inactive ingredient unless it affords an overriding benefit. The Commissioner therefore proposes to add new § 310.514 to Part 310 (21 CFR Part 310) of the new drug regulations, declaring that any drug product for human use containing saccharin as an inactive ingredient is a new drug and is misbranded unless such product is specifically exempted from the regulation. The Commissioner bases this proposal on the fact that the use of saccharin in most drug products as an inactive ingredient produces no direct therapeutic benefit. Thus, the possible risk associated with the use of saccharin for such purpose is medically unjustified. This is particularly true because individuals do not have the opportunity to choose whether or not to take such a risk if saccharin were to remain available as an inactive ingredient in drug products.

In § 310.514, the Commissioner proposes that any holder of an approved new drug application for a drug product containing saccharin as an inactive ingredient be required to submit to FDA within 9 months of the date of publication of the final regulation, a supplemental application providing for a new revised formulation removing saccharin as an ingredient. The revised formulation may not be marketed before the receipt of written notice of approval of the supplemental application by FDA. Any sponsor of a "Notice of Claimed Investigational Exemption for a New Drug" (IND notice) for a drug product containing saccharin as an ingredient shall amend the IND notice within 9 months of the date of publication of the final regulation to revise the formulation removing saccharin as an ingredient. Under the proposal, the Commissioner would initiate action to withdraw approval of an application or terminate an IND notice if any current holder of an approved new drug application or sponsor of an IND notice fails to submit a supplemental application or to amend an IND notice as set forth, and within the time periods provided for, in § 310.514.

A period of 9 months for the submission of supplemental applications is being proposed to allow manufacturers time to reformulate their products and perform the stability and bioavailability studies, where necessary. Depending upon the type of product, i.e., tablet or liquid, and the amount of saccharin currently in the product, reformulation to maintain palatability may pose problems. For example, attempts to raise the content of nutritive sweeteners to mask the bitter taste of a drug is limited by such physical factors as solubility. Further, because of the increased nutritive sweetener content, a preservative may have to be added. Likewise, as of July 7, 1977, firms, will also have to comply with the bioavailability requirements as set forth in §§ 320.21 and 320.22 (21 CFR 320.21 and 320.22) of the regulations. Similar provisions, applicable to antibiotic drug products, are set forth in a new § 430.300 that the Commissioner proposes to add to Part 430 (21 CFR Part 430) of the regulations.

Because of the potential need for specially formulated drugs for diabetics or for special situations in which saccharin may be necessary for the product as a pharmaceutical aid, the Commissioner is also proposing a specific provision under which a petition may be submitted to FDA requesting that a specific use of saccharin as an inactive ingredient be permitted. To support such a petition, the person requesting the exemption must submit the following information: (1) the amount of saccharin in the drug product; (2) is saccharin is included as a pharmaceutical aid, an adequate showing that there are no technically feasible alternatives to saccharin, or an adequate showing that the drug product containing saccharin provides a substantial health benefit that would not be available without the use of saccharin, for example, the product is one specifically formulated for diabetics; and (3) copies of the proposed labeling specifying the saccharin content.

Whether or not the drug product is subject to the requirements for an approved new drug application or for antibiotic certification, under the proposal, a drug product containing saccharin as an inactive ingredient shall, unless exempted, not be manufactured after 15 months and shall not be initially shipped into interstate commerce 18 months from the date the final regulations are published in the Federal Register. Initial introduction into interstate commerce of a drug product for purposes of this regulation means the first shipment of the final dosage form of the drug product into interstate commerce pursuant to a sale or consignment to an independent party. Since these dates are applicable to all drug products, firms submitting supplemental new drug applications or amendments to antibiotic drug files should assure that they are complete when they are submitted.

C. Saccharin As A Single-Active-Ingredient Drug

Saccharin has been available for many years in single-active-ingredient products for use by individuals who must control their caloric intake. These products consist of tablets, liquids, or powders containing saccharin as the primary sweetening ingredient, and some are popularly known as "tabletop sweeteners." For the most part, these products have been regulated by the agency as food additives, and most recently as special dietary foods (see 21 CFR 105.79, formerly 21 CFR 125.7 prior to recodification published in the Federal Register of March 15, 1977 (42 FR 14302)).

These products have also historically been recognized as drugs. The Referee Board of the United State Department of Agriculture, while considering the safety of saccharin in foods in 1912, stated, "The Food and Drug Act provides that any substance which is intended to be used for the prevention, cure, or mitigation of disease is a drug, and a product containing saccharin and plainly labeled to show that the mixture is intended for the use of those persons who, on account of disease, must abstain from the use of sugar, falls within the class of drugs * * *." This statement by a board of scientific advisors indicates that, even as early as 1912, saccharin was recognized as a drug when offered for sale for use by persons with a medical need to limit nutritive sweeteners in their diets.

The United States Pharmacopoeia has recognized saccharin as a pharmaceutical aid since at least 1926. The current edition of the National Formulary recognizes saccharin calcium, saccharin sodium, and saccharin sodium tablets. By

virtue of the recognition of those products in the official compendia, and depending on their labeling, they may fall within the definition of "drug" in section 201(g) of the act (21 U.S.C. 321(g)).

Saccharin was reviewed in the mid-1950's under the new drug provisions of the act as an active ingredient of a new drug product in combination with a cyclamate salt, but the new drug application for this product is no longer approved. In addition, as recently as August 27, 1975 (40 FR 38179), FDA published an amended notice requesting data and information on saccharin for review by its OTC Miscellaneous Internal Products Panel. This publication was a part of the agency's ongoing review of OTC drug products for human use currently marketed in the United States. Saccharin was included in the listing of ingredients under the product categories of sweeteners and weight control products. The Commissioner notes, however, that in response to the August 27, 1975 notice, no submissions of any type were made for any product containing saccharin as an active ingredient. The Bureau of Drugs of FDA thus has no request before it at the present time from any manufacturer to market saccharin either OTC or by prescription, under the OTC review or as a new drug.

Although single-ingredient tabletop sweeteners containing saccharin in the form of tablets, liquids, or powders have been subject to regulation as foods, the Commissioner believes that such products may be considered as drugs, depending upon the claims made for them. The essential criterion for determining whether a product is a drug is whether it meets the definition in section 201(g)(1)(B) and (C) of the act, as "articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of a disease in man or other animals," and "articles (other than food) intended to affect the structure or any function of the body of man or other animals."

Once determined to be a drug, a product must meet the standards of the drug provisions of the act, among them the safety and effectiveness requirements of either section 201(p) or 505. Section 201(p) states that a drug is a new drug if it is "not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof." If a new drug, the law requires among other things "substantial evidence that [it] will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof" (21 U.S.C. 355(d)(5)). Such substantial evidence means "evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and responsibly be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof" (21 U.S.C. 355(d)(6)).

Finally, if a drug is otherwise marketable, the Commissioner must determine whether it should be considered as a prescription or OTC drug. The applicable standard (21 U.S.C. 353(b)(1)(B)) requires that a drug must be dispensed by prescription if, "because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, [it] is not safe for use except under the supervision of a practitioner licensed by law to administer such drug."

The Commissioner recognizes that saccharin is the only product available on the market for use as a nonnutritive sweetener and that such use may be important to the proper dietary management of individuals who must control their intake of nutritive sweeteners. These include individuals with conditions such as diabetes, obesity, reactive hypoglycemia, and carbohydrate-induced hyperlipemia. Whether such use is properly construed as a drug use under the law depends upon the claims made by the manufacturer and is reasonably open to debate. The Commissioner is prepared to consider the possibility that such single-ingredient sweeteners may be marketable as drugs, even if the same formula might not be approvable as a food additive. The Commissioner believes, however, that the proper context for considering such a use under the drug laws is in reviewing new drug applications for individual products.

In reaching this tentative conclusion, the Commissioner has specifically excluded the possibility of reviewing the matter further as part of the OTC review. This review is fundamentally intended to identify those conditions under which specific ingredients can be generally recognized as safe and effective for OTC use within the meaning of section 201(p) of the act. There is no realistic prospect, however, that such a determination can be made for saccharin as a drug. Saccharin has no history of marketing in the United States as a drug approved for effectiveness under the Drug Amendments of 1962; general recognition of effectiveness under these conditions would seem to be precluded, even though effectiveness vel non may be demonstrated. Similarly, the Canadian study represents new evidence reflecting on the safety of the product which the Commissioner considers sufficient to remove it from the market as an approved food additive. In the face of this new evidence, general recognition of safety does not appear to be a reasonable possibility. For these reasons, the Commissioner concludes that saccharin is not a suitable ingredient for review by the Miscellaneous Internal Products Panel of the OTC Review, and the call of August 27, 1975 for submission of information on sweeteners to this panel is hereby rescinded.

The Commissioner believes that the new drug application is a more appropriate mechanism for considering the issues related to the marketability of saccharin-containing sweeteners for use by individuals who for medical reasons must limit their intake of nutritive sweeteners. He therefore invites comment on a proposal to add a new § 310.514(b) to the regulations which would permit the submission of new drug applications for such products. This authorization would be limited to consideration of tabletop sweeteners in packaging appropriate for use by individual patients. The agency will not entertain under this proposal new drug applications for any products that are clearly foods sweetened with saccharin, e.g., diet soft drinks, canned fruits, etc.

The proposed regulation requires that any manufacturer wishing to ship a single-active-ingredient sweetener containing saccharin in interstate commerce would have to meet the following conditions after publication of the final regulations:

1. Within 180 days, submit a new drug application for the product, meeting the requirements of § 314.1 of the regulations.

2. Within 120 days, label the product with the following interim indications statement: "For use as a noncaloric sweetener when a sugar-restricted diet is medically indicated, as in patients with diabetes" and with a warning statement concerning the risk of cancer. The Commissioner proposes the following warning statement, and solicits additional suggestions: "Warning: Saccharin causes bladder cancer in animals. Use of saccharin may increase your risk of cancer."

Any manufacturer not meeting these conditions would be subject to regulatory action.

The Commissioner proposes that those manufacturers whose products meet the requirements of this section will be permitted to market their products while their new drug applications are under review. Such marketing is permitted for a marketed drug which is newly declared as a new drug provided the Commissioner determines it is or may be medically necessary (*Hoffman-LaRoche, Inc. v. Weinberger*, 425 F. Supp. 890 (D.D.C. 1975)). The Commissioner has determined that the continued marketing of saccharin as a single-ingredient drug meets this criterion, at least for purposes of permitting further consideration of the data and information in new drug applications, since saccharin is the only remaining sweetener on the market for patients on sugar-restricted diets.

The foregoing determinations should in no way be construed as committing the Commissioner to approve any new drug applications submitted either for the interim indication proposed or any other indication. Approval will depend on whether the products as labeled meet the definition of a drug and whether the evidence presented in these applications meets the criteria for approval set forth in the statute and in the regulations.

The Commissioner tentatively concludes that, if saccharin-containing sweeteners are labeled as drugs and if they are deemed to be otherwise approvable under the new drug provisions of the act, they may be marketed OTC. This conclusion is based on the lack of toxicity (other than risk of cancer, for which it will be labeled), the lack of other collateral measures necessary for its safe use, which would require a prescription, and the long history of safe OTC use of the product without a physician's prescription. The Commissioner invites comments on this tentative conclusion.

III. Use of Saccharin as a Cosmetic Ingredient

Saccharin is currently used as an ingredient in a number of cosmetic products, principally to affect taste. Many of these products, such as dentifrices (toothpastes) and mouthwashes, as well as lipsticks, are likely to be ingested under normal conditions of use. Although the risk of exposure to significant amounts of saccharin from any of these products may not be large, the use of saccharin affords no benefit sufficient to warrant the acceptance of any increased risk. The Commissioner therefore proposes to determine that the use of saccharin in any cosmetic product that is likely to be ingested and which is manufactured more than 30 days after the date of publication of a final regulation will result in the product being deemed to be adulterated under section 601(a) of the act (21 U.S.C. 361(a)).

IV. Use of Saccharin in Standardized Foods

Saccharin is listed as a mandatory ingredient in nine standards of identity for artificially sweetened fruit products. In addition two standards, 21 CFR 146.111 and 146.121 (formerly 21 CFR 27.128 and 27.103, prior to recodification published in the Federal Register of March 15, 1977 (42 FR 14302)) list as a mandatory ingredient "one or more of the artificial sweetening ingredients listed in and complying with Parts 170 through 129 of this chapter."

The Commissioner proposes to amend those standards of identity for artificially sweetened fruit products that require saccharin to be used as the artificial sweetener by deleting the reference to saccharin and replacing it with more general language requiring the use of "one or more of the artificial sweeteners listed in and complying with Parts 170 and 189" of Chapter I of Title 21 of the Code of Federal Regulations.

When the ban on saccharin as a food additive takes effect, the marketing of the foods covered by the 11 standards will be unlawful. The Commissioner has opted to amend the standards rather than revoke them to conserve agency resources.

If the standards were revoked and an artificial sweetener was subsequently approved for use by FDA, the process of establishing standards for artificially sweetened fruit products would have to begin anew. By keeping the standards on the books, the Commissioner will avoid unnecessarily expending scarce agency resources. The Commissioner emphasizes, however, that his election of the amendment approach rather than revocation should not be taken to be an implied prediction that FDA will soon approve another artificial sweetener as a replacement for saccharin. The amendments are being proposed as a matter of administrative convenience, not as a harbinger of future approval of any artificial sweetener.

V. Use of Saccharin in Animal Drugs and Animal Feed

The use of saccharin as an ingredient in animal drugs or animal feed for food-producing animals requires a demonstration that no residue will be found in food from the edible products derived from those animals, either by an assay designated in accordance with the provisos to the anticancer clauses of the act (sections 409(c)(3)(A), 512(d)(1)(H), and 706(b)(5)(B)) if it is a carcinogen, or by an assay designated under sections 409(b)(2)(D), 512(b)(7), and 706(b)(5)(A)(iv), in accordance with the general safety provisions of the act. No such assay has been submitted, nor, to the knowledge of the Commissioner, does such an assay exist. Accordingly, the Commissioner proposes to ban saccharin for all uses in food-producing animals.

Since saccharin is also an ingredient in some animal drugs and feeds intended for use in non-food-producing animals, the Commissioner proposes to disapprove this use as well. Saccharin provides no therapeutic benefit to animals and has not been shown to provide any overriding benefit to a measurable animal treatment population. For these reasons, the Commissioner concludes that any risks to animals from the use of saccharin in such drugs outweigh any theoretical benefit alleged from its continued use.

VI. Compliance Policy

An important aspect of this proposal is, quite obviously, the compliance policy that FDA intends to adopt as part of the final regulations on saccharin. Matters of interest to consumers and manufacturers and users of saccharin alike are: When will the ban take effect? Will it apply to manufacture or shipment of saccharin containing foods? Is a recall contemplated? When must new drug applications be submitted? This section summarizes FDA's intended compliance policy when final regulations are issued.

A. Saccharin Used in Food

Under section 409(e) of the act (21 U.S.C. 348(e)), the final regulation revoking the interim food additive regulation for saccharin (21 CFR 180.37) shall be effective on publication in the Federal Register. The Commissioner intends, in the final regulation, to prohibit the addition of saccharin to any food (e.g., soft drinks) after the effective date of the final regulation. Foods that have been fully processed and packaged for sale to consumer or institutions on the effective date of the final regulation would be permitted to be sold. The addition of saccharin in the manufacture of food, further processing, or repacking, after the effective date of the final regulation will cause such products to be adulterated within the meaning of the act and subject to regulatory action.

B. Saccharin Used in Human Drugs

When a final regulation is issued, holders of approved new drug applications for a drug product containing saccharin as an inactive ingredient and sponsors of IND notices for a drug product containing saccharin as an ingredient will have 9 months to file a supplemental application (NDA) or amendment (IND notice) to revise the formulation removing saccharin an an ingredient. Similar requirements are proposed for antibiotic drug products.

Petitions may be submitted to FDA requesting that a specific use of saccharin as an inactive ingredient be permitted. Such a petition must include the information specified in section II.B. of this preamble.

Manufacture of any drug products containing saccharin as an inactive ingredient would be prohibited after 15 months from the date of publication of final regulations in the Federal Register Initial shipment of drug products containing saccharin as an inactive ingredient would be prohibited 18 months after the date of publication of final regulation in the Federal Register.

This proposal invites comment on the appropriateness of permitting the marketing of saccharin as a single-ingredient drug for use by persons who must restrict their intake of sugar, available without a physician's prescription. If the final regulation should permit such marketing, any manufacturer wishing to ship in interstate commerce a saccharin-containing tabletop sweetener would, within 180 days after the date of publication of the final regulation, have to submit a new drug application for the product and comply with the other requirements set forth in proposed § 310.514.

Tabletop sweeteners currently being marketed would be permitted to continue to be marketed as over-the-counter drugs, pending review and action on the new drug applications. The Commissioner cautions against substantial changes in the packaging format of saccharin as a single-ingredient product during this period. Within 120 days after publication of the final regulation, however, those products would have to be labeled with the statements prescribed in § 310.514(b)(2).

C. Saccharin Used in Cosmetics

A final regulation prohibiting the use of saccharin in cosmetics that are likely to be ingested will be effective 30 days after publication of a final regulation in the Federal Register. The addition of saccharin to cosmetics that are likely to be ingested after the effective date of a final regulation would be prohibited. Cosmetics containing saccharin that are already on the market and those prod-

ucts that are fully processed and packaged for sale to consumers or institutions before the final regulation takes effect will be permitted to be sold. The prohibition on saccharin in cosmetics does not apply to products that are not likely to be ingested (e.g., hair tonics).

D. SACCHARIN USED IN ANIMAL DRUGS AND FEED

The final regulation prohibiting the use of saccharin in animal feed will be effective on publication in the FEDERAL REGISTER. The Commissioner intends, in the final regulation, to prohibit the addition of saccharin to any animal feed after the effective date of the regulation.

The final regulation prohibiting the use of saccharin in animal drugs will be effective 30 days after publication in the FEDERAL REGISTER. After the effective date, it will be unlawful to manufacture an animal drug containing saccharin. Holders of approved new animal drug applications for products that contain saccharin as an inactive ingredient will be required to file a supplemental application within 9 months of publication of final regulations.

E. RECALL OF SACCHARIN-CONTAINING PRODUCTS

The Commissioner has concluded that the protection of the public health does not require the recall from the market of food, drugs (human and animal), animal feed, and cosmetics that contain saccharin or the destruction of products that are fully processed and packaged for sale to consumers or institutions when a final regulation is issued. Thus, at this time, no recall is contemplated and products that contain saccharin on the market or fully processed and packaged for sale to consumers or institutions when a final regulation is issued would be permitted to be sold.

As discussed earlier in this preamble, the Commissioner believes that prolonged consumption of saccharin in ordinary foods, such as soft drinks, and exposure to saccharin from other products (i.e., drugs, animal drugs and feed, and cosmetics) poses a significant risk of cancer and should not be permitted in the future. However, the potential risk of human cancer from saccharin is cumulative; though significant, it is not immediate in the sense that the exposure of consumers to saccharin must be halted at once. The relatively short period of time in which products containing saccharin already on the market will be sold, does not, in the Commissioner's judgment, significantly threaten the public health.

The Commissioner emphasizes, however, that there is a significant potential risk of cancer from prolonged consumption of saccharin. His judgment is that a recall—with all the attendant costs to the industry and consumers—is not required to protect the public health; but this judgment should not be construed as reflecting a lack of concern about the cumulative risk associated with the routine consumption of saccharin by the general population.

All FDA regulations concerning human food were reorganized under Subchapter B—Food for Human Consumption, published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302). For the convenience of the reader, the following table lists the former designation of the sections in recodified Subchapter B which would be amended by this proposal.

New section:	Old section
145.116	27.14
145.126	27.34
145.131	27.73
145.136	27.43
145.171	27.6
145.176	27.24
145.181	27.57
146.111	27.128
146.121	27.103
150.141	29.4
150.161	29.5
172.135	121.1056
172.820	121.1185
180.37	121.4001
189.185	121.106(d)

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.

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Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 301, 401, 402, 409, 502, 505, 512, 601(a), 701 (a) and (e), 52 Stat. 1042-1043 as amended, 1046-1047 as amended, 1050-1055 as amended, 70 Stat. 919, 72 Stat. 1784-1788 as amended, 82 Stat. 343-351 (21 U.S.C. 321(s), 331, 341, 342, 348, 352, 355, 360b, 361(a), 371 (a) and (e))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

PART 145—CANNED FRUITS

1. In Part 145:

a. By revising § 145.116(a) to read as follows:

§ 145.116 Artificially sweetened canned apricots.

(a) Artificially sweetened canned apricots is the food which conforms to the definition and standard of identity prescribed for canned apricots by § 145.115(a), except that in lieu of a packing medium specified in § 145.115(a)(3), the packing medium

used is water sweetened with one or more of the artificial sweeteners listed in and complying with Parts 170 through 189 of this chapter. Such packing medium may be thickened with pectin and may contain any mixture of any edible organic salt or salts and any edible organic acid or acids as a flavor-enhancing agent, in a quantity not more than is reasonably required for that purpose.

* * * * *

b. By revising § 145.126(a) to read as follows:

§ 145.126 Artificially sweetened canned cherries.

(a) Artificially sweetened canned cherries is the food which conforms to the definition and standard of identity prescribed for canned cherries by § 145.125(a), except that in lieu of a packing medium specified in § 145.125(a)(3), the packing medium used is water sweetened with one or more of the artificial sweeteners listed in and complying with Parts 170 through 189 of this chapter. Such packing medium may be thickened with pectin and may contain any mixture of any edible organic salt or salts and any edible organic acid or acids as a flavor-enhancing agent, in a quantity not more than is reasonably required for that purpose.

* * * * *

c. By revising § 145.131(a) to read as follows:

§ 145.131 Artificially sweetened canned figs.

(a) Artificially sweetened canned figs is the food which conforms to the definition and standard of identity prescribed for canned figs by § 145.130, except that in lieu of a packing medium specified in § 145.130(c), the packing medium used is water sweetened with one or more of the artificial sweeteners listed in and complying with Parts 170 through 189 of this chapter. Such packing medium may be thickened with pectin and may contain any mixture of any edible organic salt or salts and any edible organic acid or acids as a flavor-enhancing agent, in a quantity not more than is reasonably required for that purpose.

* * * * *

d. by revising § 145.136(a) to read as follows:

§ 145.136 Artificially sweetened canned fruit cocktail.

(a) Artificially sweentened canned fruit cocktail is the food which conforms to the definition and standard of identity prescribed for canned fruit cocktail by § 145.135(a), except that in lieu of a packing medium specified in § 145.135(a)(3), the packing medium used is water sweetened with one or more of the artificial sweeteners listed in and complying with Parts 170 through 189 of this chapter. Such packing medium may be thickened with pectin and may contain any mixture of any edible organic salt or salts and any edible organic acid or acids as a flavor-enhancing agent, in a quantity not more than is reasonably required for that purpose.

* * * * *

e. By revising § 145.171(a) to read as follows:

§ 145.171 Artificially sweetened canned peaches.

(a) Artifically sweetened canned peaches is the food which conforms to the definition and standard of identity prescribed for canned peaches by § 145.170(a), except that in lieu of a packing medium specified in § 145.170(a)(3), the packing medium used is water sweetened with one or more of the artificial sweeteners listed in and complying with Parts 170 through 189 of this chapter. Such packing medium may be thickened with pectin and may contain any mixture of any edible organic salt or salts and any edible organic acid or acids as a flavor-enhancing agent, in a quantity not more than is reasonably required for that purpose.

* * * * *

f. By revising § 145.176(a) to read as follows:

§ 145.176 Artificially sweetened canned pears.

(a) Artificially sweetened canned pears is the food which conforms to the definition and standard of identity prescribed for canned pears by § 145.175(a) except that in lieu of a packing medium specified in § 145.175(a)(3), the packing medium used is water sweetened with one or more of the artificial sweeteners listed in and complying with Parts 170 through 189 of this chapter. Such packing medium may be thickened with pectin and may contain any mixture of any edible organic salt or salts and any edible organic acid or acids as a flavor-enhancing agent, in a quantity not more than is reasonably required for that purpose.

* * * * *

g. By revising § 145.181(a) to read as follows:

§ 145.181 Artificially sweetened canned pineapple.

(a) Artificially sweetened canned pineapple is the food that conforms to the definition and standard of identity prescribed for canned pineapple by § 145.180(a), except that in lieu of a packing medium specified in § 145.180(a)(2), the packing medium used is water sweetened with one or more of the artificial sweeteners listed in and complying with Parts 170 through 189 of this chapter. Such packing medium may be thickened with pectin.

* * * * *

PART 150—FRUIT BUTTERS JELLIES, PRESERVES, AND RELATED PRODUS

2. In Part 150:

a. By revising § 150.141(c) to read as follows:

§ 150.141 Artificially sweetened fruit jelly.

* * * * *

(c) The artificial sweetening ingredients referred to in paragraph (a) of this section are one or more of the artificial sweeteners listed in and complying with Parts 170 through 189 of this chapter.

* * * * *

b. By revising § 150.161(c) to read as follows:

§ 150.161 Artificially sweetened fruit preserves and jams.

* * * * *

(c) The artificial sweetening ingredients referred to in paragraph (a) of this section are one or more of the artificial sweeteners listed in and complying with Parts 170 through 189 of this chapter.

* * * * *

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

3. In Part 172:

§ 172.135 [Amended]

a. By amending § 172.134 Disodium EDTA by deleting paragraph (b)(3).

b. By amending § 172.812 by revising paragraphs (b) and (c) to read as follows:

§ 172.812 Glycine.

* * * * *

(b) The additive is used or intended for use as a stabilizer in mono- and diglycerides prepared by the glycerolysis of edible fats or oils in an amount not to exceed 0.02 percent of the mono- and digylcerides.

(c) To assure safe use of the additive, in addition to the other information required by the act, the labeling of the additive shall bear adequate directions for the use of the additive in compliance with the provisions of this section.

§ 172.820 [Amended]

c. By amending § 172.820 Polyethylene glycol (mean molecular weight 200–9,500), by deleting and reserving paragraph (c)(2).

PART 180—FOOD ADDITIVES PERMITTED IN FOOD ON AN INTERIM BASIS

§ 180.37 [Revoked]

4. In Part 180, by revoking § 180.37 Saccharin, ammonium saccharin, calcium saccharin, and sodium saccharin, which had permitted saccharin and its salts in food on an interim basis pending additional study.

PART 189—SUBSTANCES PROHIBITED FROM USE IN HUMAN FOOD

5. In Part 189, by adding new § 189.185 to read as follows:

§ 189.185 Saccharin and its salts.

(a) The food additive saccharin is the chemical, 1,2-benzisothiazolin-3-one-1, 1-dioxide ($C_7H_5NO_3S$). Ammonium saccharin, calcium saccharin, and sodium saccharin are produced by the additional neutralization of saccharin with the proper base to yield the desired salt. Saccharin and the named salts have been used as sweetening agents in food.

(b) Food containing any added saccharin or saccharin salt is deemed to be adulterated in violation of the act.

PART 310—NEW DRUGS

6. In Part 310, by adding new § 310.514 to read as follows:

§ 310.514 Saccharin; use as an ingredient in drug products.

(a) Saccharin has been used for many years as a flavoring agent in drug products, such as pediatric liquid oral preparations, cough sirups, chewable tablets, and toothpaste with medical claims. Saccharin has also been used in the management or mitigation diabetes and other conditions in which the available carbohydrate and/or calories of a patient must be controlled. Information now available demonstrates that saccharin causes malignant bladder tumors in test animals and therefore has a potential for causing cancer in humans. The potential risk in humans outweighs the benefits of nontherapeutic use of saccharin. On the basis of this new evidence, saccharin has not been shown to be safe for use as an inactive drugs ingredient, with certain exceptions as provided for in paragraph (f) of this section.

(b) (1) Any drug product that contains saccharin, or one of its salts, as a single-active-ingredient product in liquid, tablet or powder form for use as a tabletop sweetener is a new drug within the meaning of seciton 201(p) of the act and requires an approved new drug application for marketing.

(2) Such products currently being marketed may remain on the market as over-the-counter products: *Provided*, (i) A new drug application complying with the requirements of § 314.1 of this chapter is submitted within 180 days of the date of publication of a final regulation; (ii) All products labeled after (120 days after date of publication of a final regulation) shall have the following statements displayed prominently on the principal display panel and on any other labeling, unless revised upon approval of the new drug application:

(A) "For use as a noncaloric sweetener when a sugar-restricted diet is medically indicated, as in patients with diabetes."

(B) "Warning: Saccharin causes bladder cancer in animals. Use of saccharin may increase your risk of cancer."

(C) Any drug product that contains saccharin as an inactive ingredient is a new drug within the meaning of section 20(p) of the act and is misbranded and subject to regulatory action under sections 301, 502, and 505 of the act.

(D) Any holder of an approved new drug application for a drug product containing saccharin as an inactive ingredient shall submit to the Food and Drug Administration on or before (9 months after date of publication of final regulation) a supplemental application providing for a revised formulation removing saccharin as an ingredient.

(1) The supplemental application shall contain:

(i) A full list of articles used as components and a full statement of the composition of the drug product.

(ii) Data showing that the change in composition does not interfere with any assay or other control procedures used in manufacturing the drug product, or that the assay and other control procedures are revised to make them adequate.

(iii) Data to establish that the stability of the product is not adversely affected by the revised formulation. If the data are too limited to support a conclusion that the drug will retain its declared potency for a reasonable marketing period, a commitment from the applicant:

(A) To test the stability of marketed batches at reasonable intervals;

(B) To submit the data as they become available; and

(C) To recall from the market any batch found to fall outside the approved specifications for the drug.

(2) The revised formulation shall not be marketed before the receipt of written notice of approval of the supplement by the Food and Drug Administration.

(e) Any sponsor of a "Notice of Claimed Investigational Exemption for a New Drug" (IND) for a drug product containing saccharin as an inactive ingredient shall amend the IND notice before (9 months after date of publication of final regulation) to provide for a revised formulation removing saccharin as an ingredient.

(f) If the holder of an approved new drug application or sponsor of an IND notice fails to comply with the provisions of paragraph (d) or (e) of this section, the Commissioner will initiate action to withdraw approval of the application or terminate the IND notice in accordance with the applicable provisions of section 505 of the act and Parts 312 and 314 of this chapter.

(g) Any person may file a petition in accordance with Part 10 of this chapter to amend paragraph (c) of this section to specify a use of saccharin in a drug product as not being subject to the misbranding provisions of that paragraph. The petition must be supported by the following information:

(1) The amount of saccharin contained in each dose of the drug;

(2) An adequate showing that there are not technically feasible alternatives to the use of saccharin in the drug product, or an adequate showing that the drug product provides a substantial health benefit or other public benefit that would not be available without the use of saccharin; and

(3) A copy of the proposed labeling clearly specifying the saccharin content and its intended use.

PART 430—ANTIBIOTIC DRUGS; GENERAL

7. In Part 430, by adding new Subpart F—Ingredients No longer Shown To Be Safe, consisting at this time of § 430.300, to read as follows:

Subpart F—Ingredients No Longer Shown To Be Safe

§ 430.300 Saccharin; use as an ingredient in antibiotic drug products.

(a) Saccharin has been used for many years as a flavoring agent in drug products, such as pediatric liquid oral preparations, cough sirups, chewable tablets, and toothpaste with medical claims. Saccharin has also been used in the management or mitigation of diabetes and other conditions in which the available carbohydrate and/or calories of a patient must be controlled. Information now available demonstrates that saccharin causes malignant bladder tumors in test animals and has a potential for causing cancer in humans. The potential risk in humans outweighs the benefits of nontherapeutic use of saccharin. On the basis of this new evidence, saccharin has not been shown to be safe for use as an inactive drug ingredient, with certain exceptions as provided for in paragraph (e) of this section.

(b) (1) Any manufacturer or other person who holds an approved antibiotic drug file providing for a product that contains saccharin shall sumbit an amendment on or before (9 months after date of publication of final regulation) providing for a revised formulation removing saccharin as an ingredient.

(2) The amendment shall contain:

(i) A full list of articles used as components and a full statement of the composition of the drug product.

(ii) Data showing that the change in composition does not interfere with any assay or other control procedures used in manufacturing the drug product, or that the assay and other control procedures are revised to make them adequate.

(iii) Data to establish that the stability of the product is not adversely affected by the revised formulation. If the data are too limited to support a conclusion that the drug will retain its declared potency for the period allowed by the expiration date, a commitment from the applicant:

(A) To test the stability of marketed batches at reasonable intervals;

(B) To submit the data as they become available; and

(C) To recall from the market any batch found to fall outside the approved specifications for the drug.

(c) No batch of antibiotic drug product containing saccharin as an ingredient will be certified or released after (18 months after date of publication of final regulation).

(d) (1) Any sponsor of a "Notice of Claimed Investigational Exemption for a New Drug" (IND) for a drug product containing saccharin as an ingredient shall amend the IND notice before (9 months after date of publication of final regulation) to provide for a revised formulation removing saccharin as an ingredient.

(2) If the sponsor of an IND notice fails to comply with the provisions of paragraph (d)(1) of this section, the Commissioner will initiate action to terminate the IND notice in accordance with the applicable provisions of section 507 of the act and Parts 312 and 433 of this chapter.

(e) Any person may file a petition in accordance with Part 10 of this chapter to amend paragraph (c) of this section to specify a use of saccharin in a

drug product which justifies certification or release of the product. The petition must be supported by the following information:

(1) The amount of saccharin contained in each dose of the drug;

(2) An adequate showing that there are no technically feasible alternatives to the use of saccharin in the drug product, or an adequate showing that the drug product provides a substantial health benefit or other public benefit that would not be available without the use of saccharin; and

(3) A copy of the proposed labeling clearly specifying the saccharin content and its intended use.

PART 510—NEW ANIMAL DRUGS

8. In Part 510, by adding new § 510.414, to read as follows:

§ 510.414 Saccharin.

(a) There are no approved or documented uses of saccharin as an ingredient in animal drugs intended for use in food-producing animals. Information now available demonstrates that saccharin causes malignant bladder tumors in test animals and therefore has a potential for causing cancer in humans. In food-producing animals, the use of saccharin as an ingredient in animal drugs or animal feed requires a demonstration that no residue will be found in food from the edible products derived from those animals, either by an assay designated in accordance with the provisos to the anticancer clauses of the act if it is a carcinogen, or by an assay designated in accordance with the general safety provisions of the act. No such assay has been submitted, nor, to the knowledge of the Commissioner, does such an assay exist. On the basis of this evidence, saccharin has not been shown to be safe for use as an inactive ingredient in animal drugs intended for use in food-producing animals.

(b) Saccharin has been used as an ingredient in some animal drugs intended for use in non-food-producing animals. Saccharin provides no therapeutic benefit to animals and has not been shown to provide any overriding benefit to a measurable animal treatment population. For these reasons, the Commissioner concludes that any risks to animals from the use of saccharin in such drugs outweigh any theoretical benefit alleged from its continued use. Accordingly, on the basis of the new evidence, saccharin has not been shown to be safe for use as an active or inactive ingredient in animal drugs intended for use in non-food-producing animals.

(c) Any drug product that contains saccharin as an inactive ingredient is a new animal drug within the meaning of section 201(w) of the act, and is unlawful and subject to regulatory action under sections 301 and 512 of the act.

(d) Any holder of an approved new animal drug application for a drug product containing saccharin as an inactive ingredient shall submit to the Food and Drug Administration on or before (9 months after date of publication of final regulation) a supplemental application providing for a revised formulation removing saccharin as an ingredient.

(e) If the holder of an approved new animal drug application fails to comply with the provisions of paragraph (d) of this section, the Commissioner will initiate action to withdraw approval of the application in accordance with the applicable provisions of section 512 of the act.

PART 589—SUBSTANCES PROHIBITED FROM USE IN FOOD OR FEED FOR ANIMALS OTHER THAN MAN

9. By adding a new Part 589, consisting at this time of § 589.185, to read as follows:

§ 589.185 Saccharin and its salts.

(a) The food additive saccharin is the chemical, 1,2-benzisothiazolin-3-one-1,1-dioxide ($C_7H_5NO_3S$). Ammonium saccharin, calcium saccharin, and sodium saccharin are produced by the additional neutralization of saccharin with the proper base to yield the desired salt. Saccharin and the named salts have been used as sweetening agents in human food and may have been used as a sweetening agent in food or feed for animals other than man.

(b) Information now available demonstrates that saccharin causes malignant bladder tumors in test animals and therefore has a potential for causing cancer in humans. For this reason it has not been shown to be safe for use in food or feed for animals other than man. In food-producing animals, the use of saccharin as an ingredient in animal feed requires a demonstration that no residue will be found in food from the edible products derived from those animals, either by an assay designated in accordance with the provisos to the anticancer clauses of the act if it is a carcinogen, or by an assay designated in accordance with the general safety provisions of the act. No such assay has been submitted, nor, to the knowledge of the Commissioner, does such an assay exist.

(c) Food or feed for animals other than man containing any added saccharin or saccharin salt is deemed to be adulterated in violation of the act.

PART 700—GENERAL

10. In Part 700, by adding a new § 700.22, to read as follows:

§ 700.22 Use of saccharin as an ingredient in cosmetic products.

(a) Saccharin and its salts have been used as an ingredient in cosmetic products. The ingestion of saccharin has been shown to induce cancer of the bladder in rats. The Commissioner concludes that, on the basis of these findings, saccharin is a deleterious substance that may render injurious to users any cosmetic product that contains saccharin or a saccharin salt as an ingredient and is likely to be ingested under normal conditions of use.

(b) Any cosmetic product containing saccharin or a saccharin salt as an ingredient that is likely to be ingested is deemed to be adulterated and is subject to regulatory action under sections 301 and 601(a) of the Federal Food, Drug, and Cosmetic Act.

Interested persons may, on or before June 14, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. The envelope containing the comment(s) should be prominently marked "SACCHARIN." 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 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. A copy of the inflation impact statement is on file with the Hearing Clerk, Food and Drug Administration.

Dated: April 12, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77-11139 Filed 4-14-77;8:45 am]

[21 CFR Parts 145, 150, 172, 180, 189, 310, 430, 510, 589 and 700]

[Doc. No. 77N-0085]

SACCHARIN AND ITS SALTS

Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice of Public Hearing.

SUMMARY: The Commissioner of Food and Drugs announces that a public hearing will be held on May 18 and 19, 1977 to receive information and views from interested persons on the proposed regulations regarding saccharin published elsewhere in this issue of the FEDERAL REGISTER.

DATES: The public hearing will be held on May 18 and 19, 1977 at 9 a.m. A written notice of participation must be filed by May 9, 1977.

ADDRESSES: Written notices of participation should be sent to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Mr. Ted Herman, Compliance Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-3480).

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the FEDERAL REGISTER, the Commissioner is proposing to revoke the interim food additive regu-

lation, 21 CFR 180.37 (formerly 21 CFR 121.4001, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) under which saccharin and its salts (saccharin) are currently permitted as ingredients in prepackaged food such as soft drinks, and as tabletop nonnutritive sweeteners. The Commissioner is also proposing to accept and promptly review new drug applications for the marketing of saccharin as a single-ingredient drug, available without a physician's prescription. The Commissioner is also proposing to prohibit the use of saccharin in cosmetics that are likely to be ingested, to amend the standards of identity that provide for the use of saccharin, and to prohibit the use of saccharin in animal drugs and animal feed. Comments on the proposal may be submitted until June 14, 1977. Because of the broad public interest in and concern about saccharin, the Commissioner has determined that, in addition to the normal 60-day comment period for receipt of written comments, an informal public hearing should be held regarding the proposal. The purpose of the informal hearing is to provide an open forum for the presentation of information and views concerning all aspects of the proposal by interested persons, be they consumers, scientists, or representatives of manufacturers of regulated products.

In preparing a final regulation, the Commissioner will consider the administrative record of this hearing along with all other written comments received during the comment period specified in the proposal.

The hearing will be held on May 18 and 19, 1977 in the auditorium located on the first floor in the HEW North Building, 330 Independence Ave. SW., Washington, DC 20201. The hearing will begin at 9 a.m. each day. The presiding officer will be Dr. Donald Kennedy, Commissioner of Food and Drugs.

A written notice of participation must be filed pursuant to 21 CFR 12.45 (formerly 21 CFR 2.131 prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)) with the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857 not later than May 9, 1977. The envelope containing the notice of participation should be prominently marked "Saccharin Hearing." The notice of participation itself must contain the Hearing Clerk Docket No. 77N–0085, the name, address, and telephone number of the person desiring to make a statement, along with any business affiliation, a summary of the scope of the presentation, and the approximate amount of time being requested for the presentation. A schedule for the hearing will be mailed to each person who files a notice of participation; the schedule will also be available from the FDA Hearing Clerk. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations.

In the event that the responses to this notice of hearing are so numerous that insufficient time is available to accommodate the full amount of time requested in the notices of participation received, the Commissioner will allocate the available time among the persons making the oral presentation to be used as they wish. Formal written statements (preferably in quadruplicate) may be presented to the presiding officer on May 18 and 19 for inclusion in the administrative record.

The hearing will be open to the public. Any interested person who files a written notice of participation may be heard with respect to matters relevant to the issues under consideration.

Dated: April 12, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77–11138 Filed 4–14–77;8:45 am]

federal register

FRIDAY, APRIL 15, 1977

PART IV

FEDERAL ENERGY ADMINISTRATION

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ENERGY AUDIT PROCEDURES

Proposed Rules and Public Hearings

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 450]

ENERGY AUDITS

Proposed Procedures

AGENCY: Federal Energy Administration.

ACTION: Notice of Proposed Rulemaking and Public Hearings for Energy Audits.

SUMMARY: FEA proposes to designate, by rule, the types of, and requirements for, energy audits, as required by the Energy Conservation and Production Act. The proposal also includes certain criteria and projections of future energy prices which FEA would use to identify energy conservation measures and renewable-resource energy measures. The intended effect of this solicitation of views and data is to provide FEA with information relevant to the development of final regulations on the types of, and requirements for, energy audits.

DATES: Comments by May 13, 1977, 4:30 p.m., e.d.t.; requests to speak at National hearing by April 25, 1977, 4:30 p.m., e.d.t.; requests to speak at other hearings by the times indicated in Comment Procedures, below.

ADDRESSES: Comments and request to speak at the National hearing to: Executive Communications, Box LQ, Room 3309, Federal Energy Administration, Washington, D.C. 20461.

National hearing shall be held May 10 and, if necessary, May 11, 1977, 9:30 a.m. e.d.t., Room 2105, 2000 M Street N.W., Washington, D.C. 20461.

Regional hearings shall be held at the times and places indicated in Comment Procedures, below.

FOR FURTHER INFORMATION CONTACT:

Mr. Sydney D. Berwager, Federal Energy Administration, National Office, Washington, D.C. 20461. (202) 566-7472.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Uses of Energy Audits.
III. Qualifying Conditions.
A. Energy Price Projections.
B. Primary Purpose.
C. Ineligible Fuel Conversion.
IV. Information Audits.
V. Verification Audits.
A. Scope of Reporting Requirements.
B. Purchase and Installation Costs.
C. Computation of Energy Consumption patterns.
VI. Cost of Energy Audits.
VII. Qualifications of Auditors.
VIII. Conflict of Interest.
IX. Certification in Verification Audit Report.
X. Comment Procedure.
XI. Coordination with Outside Parties, Environmental and Inflationary Review.

I. Introduction

The Federal Energy Administration (FEA) proposes to add a new Part 450 to Chapter II of Title 10, Code of Federal Regulations (CFR), to designate, by rules, types of, and requirements for, energy audits, under Section 432(d), 42 U.S.C. 6325(e)(2) of the Energy Conservation and Production Act (Act), Pub. L. 94-385, 90 Stat. 1125 et seq.

FEA also is including in this part its proposed projections of future energy prices. These projections will be used in calculating the changes in energy costs which will result from installing a particular modification in an existing building or industrial plant. This regulation also includes criteria FEA will use to determine whether the installation of a particular modification meets requirements of the Act for designation as an energy measure.

II. Uses of Energy Audits

The proposed regulation prescribes requirements to accomplish the following purposes—

1. To establish minimum requirements for the type of energy audits to be carried out as part of a supplemental State energy conservation plan, proposed guidelines for which were published in the Federal Register on March 25, 1977 at page 16150 et seq.;

2. To measure the energy and cost savings to be derived from the installation of an energy measure; and

3. To provide a process to identify a modification of a building or industrial plant as an energy measure for purposes of the Act.

FEA at this time is proposing two types of energy audits—information audits for the first purpose and verification audits for the other two purposes. FEA may develop additional types of energy audits at a later date.

III. Qualifying Conditions

Proposed § 450.4 includes criteria FEA will use, in reviewing the results of an energy audit, to determine whether a modification meets certain conditions specified in the Act as necessary for designation as an energy measure.

For designation of a modification as an energy conservation measure or a renewable-resource energy measure, FEA must determine that installation of the modification is likely to reduce energy costs in an amount sufficient to enable a person to recover the total cost of purchasing and installing such modification within its attributed life. The information provided by a verification audit will enable FEA to measure the extent of energy and cost savings and to determine whether these savings are sufficient to meet this cost recovery test.

This proposed section also contains projections of future energy prices which will be used in carrying out verification audits for calculating the changes in energy costs projected to result from installing a particular modification in an existing building or industrial plant.

In addition, for designation as an energy conservation measure, the Act requires that FEA must determine that installation of the modification (1) has as its primary purpose an improvement in the efficiency of energy use and (2) will not result in any conversion from one fuel or source of energy to another which is of a type which FEA determines, in accordance with this part, is ineligible on the basis that such type of conversion is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels. This proposed section sets forth the standards by which FEA will determine whether the primary purpose of a modification is an improvement in energy use efficiency and whether it will result in an ineligible fuel conversion.

A. Energy Price Projections

In accordance with the definitions of energy conservation measure and renewable-resource energy measure in Section 431 of the Act, FEA has provided energy costs reasonably projected over time as Appendix A to this proposed regulation. These take the form of price projections for electricity, liquefied petroleum gas (LPG), natural gas, distillate fuel oil, residual fuel and coal for each of the 10 FEA regions through the year 1991. For price projections for years beyond 1991, 1991 prices will be used. Proposed § 450.4(d) requires that prices be derived by using the projected prices provided in Appendix A, either as shown in Tables 1-20, or by adjusting these prices for a particular user by using prescribed alternate formulas. Proposed § 450.21(c) requires that prices derived in accordance with proposed § 450.4(d) be used for verification audits.

FEA's projected energy prices are developed from the March 30, 1977 Reference Case results of the Project Independence Evaluation System (PIES). PIES is an integrated model of the domestic energy system with explicit representation at the regional level of supplies and costs of petroleum products, gas, and coal; costs of petroleum refining, electricity generation, and energy transportation; and price sensitivity of energy demands. Although new cases are being prepared by FEA, this Reference Case was selected as the currently available future case best reflecting current laws and regulations, thus requiring little conjecture regarding future legislative actions. Specific assumptions under which the Reference Case is prepared are:

1. Real annual growth rate for the Gross National Product (GNP) will average 5.0 percent to 1980, 3.4 percent from 1980 to 1985, and 3.0 percent from 1985 to 1990.

2. Legislation and policies in effect as of November 1976 will continue, including—

(a) Domestic composite crude oil prices will rise at a rate of 10 percent per year.

(b) Most of the major conservation programs included in the Energy Policy and Conservation Act of 1975 will be carried out.

(c) FPC Opinion 770, which increased prices of interstate natural gas, will remain in force.

(d) Import oil prices will remain constant in real terms.

The projection techniques have been developed to be used for a number of critical FEA forecasting purposes. These projections are expected to be revised as better information becomes available.

Also proposed are formulas by which individual building and industrial plant owners or operators can adjust the regional average prices to reflect the difference between their actual base year price and the regional average base year price.

FEA is particularly interested in receiving comments on the applicability and implications of these fuel price projections and the price adjustment formulas.

B. PRIMARY PURPOSE

The Act requires that the "primary purpose" of an energy conservation measure is to be an improvement (characterized in the proposed regulations as the result of a "modification") in efficiency of energy use, as determined by FEA. Proposed § 450.4(a) reflects FEA's determination that if the costs of the purchase and installation of a modification will be recovered by the projected energy cost savings to be attained over the attributed life of such modification, the primary purpose for an energy conservation measure will have been met.

Two other approaches to "primary purpose" were considered and rejected. One approach would be to determine whether the energy cost savings of the modification would comprise some significant proportion of the total cost savings resulting from use of that modification. Such an approach would allow FEA to support modifications for which energy savings were only one of several desirable benefits. However, FEA decided that the determination of any given percentage of total costs would be arbitrary, complex and difficult.

A second alternative approach would be to determine whether energy efficiency is the primary purpose of any given modification on a case-by-case basis. FEA decided that such an approach would provide inadequate guidance to building and industrial plant owners, and would be both time-consuming and costly to implement.

FEA is interested in receiving comments on the feasibility and implications of its approach in proposed § 450.4 (a) to determining primary purpose.

C. INELIGIBLE FUEL CONVERSION

As reflected in proposed § 450.4(b), FEA finds, as required by the Act, that any modification that results in an increase in the consumption of petroleum products, natural gas, or a combination of these, at the building or industrial plant site cannot qualify as an energy conservation measure because it is inconsistent with national policy or with respect to reduction of import of fuels.

Although coal is currently perceived by FEA as a depletable energy resource, a conversion to coal has been determined by FEA to be acceptable since such a conversion would not increase and may reduce the import of fuels.

One alternative considered and rejected would have required that the energy consumption impacts of each modification be traced back to the original fuel source. Under this alternative, end-use electricity consumption would have had to be converted to power plant energy consumption and then analyzed in terms of the fuels (e.g., gas, oil, coal, nuclear fuel) required to generate this electricity. While an analysis of this type would enable FEA to make an ideal determination of the modification's net impact on the consumption of imported fuels, FEA does not feel that sufficient information exists to allow such analysis to be undertaken or reviewed in a technically sound and consistent manner. Accordingly, in general, FEA will judge the fuel conversion impacts of proposed modifications at the point of use on site.

The only exceptions that FEA will review, on a case-by-case basis, are those that involve the installation of dual-purpose power plant equipment as provided in proposed § 450.4(c). In addition to the fact that such modifications have a salutary impact on the efficiency of energy use at the site, the equipment used has by-products, such as process steam or electricity, which in many cases can be used elsewhere and thus can reduce the consumption of imported fuels. Accordingly, the installation of a dual-purpose power plant may qualify as an energy conservation measure even if its installation increases the consumption of petroleum products at the user site. However, FEA will require that the energy audit submitted for case-by-case review of such a modification demonstrate that an off-setting reduction in the consumption of petroleum products occurs at a utility power plant or other location where the useful by-products of the equipment are used.

FEA is particularly interested in receiving comments on its proposed approach in § 450.4(b) to determining ineligible fuel conversions and the practicability of its procedures for assessing dual-purpose power plant equipment on a case-by-case basis as proposed in § 450.4(c).

IV. Information Audits

Proposed subpart B establishes the classes and requirements for the conduct of information audits and the qualifications of persons conducting and the cost of information audits. This subpart establishes the minimum criteria for information audits to be carried out by a State under a supplemental plan eligible for Federal financial assistance. A program for supplemental plans is established under Part B, Title IV of the Act.

On March 25, 1977, FEA published in the Federal Register proposed supplemental State energy conservation plan guidelines, 42 FR 16150. The proposed guidelines pursuant to the Act mandate three program measures, one of which calls for energy conservation efforts by a State to encourage and carry out energy audits. The guidelines provide for the use of three types of information audits—Classes A, B, and C.

Proposed § 450.11 establishes these three classes of information audits and their requirements, and proposed § 450.12 establishes the information to be contained in each type. Class A information audits require a qualified energy auditor to conduct an on-site energy audit of a particular building or industrial plant. Class B information audits require a State-provided questionnaire and State-sponsored analytical process that would enable the owner, operator or occupant of a building or industrial plant to analyze the likely effects of certain modifications on reducing energy consumption. Class C information audits require State-provided workbooks to enable the owner, operator or occupant of a building or industrial plant to conduct a "do it yourself" information audit.

While subpart B of the regulation applies only to information audits conducted in implementation of supplemental plans, it is not the intent of these rules to suggest that an information audit can be carried out only by, or with the approval of, a State. Parties desiring to assess modifications for saving energy in their buildings or industrial plants may consider this regulation as providing useful guidelines for making such assessments.

The proposed guidelines for supplemental plans provide that Class B or C audits shall be available to all individuals who are occupants of residential dwelling units in the State at no direct cost to those persons. Furthermore, the proposed guidelines require that no Federal financial assistance provided for a supplemental plan be used to pay auditors to perform Class A energy audits.

FEA wishes to provide each State with the maximum latitude and will not require the stringent procedures prescribed for verification audits. However, prior to issuance of a grant, a State's procedures shall be included in its supplemental plan submitted to FEA for review and approval.

V. Verification Audits

Proposed subpart C prescribes guidelines for building and industrial process verification audits. A verification audit provides detailed analysis of the changes in energy use and costs likely to result from the implementation of modifications. All audits carried out for the purposes set forth in proposed § 450.2, with the exception of audits carried out as elements of supplemental plans, will be of the verification audit type, although a State may choose to prescribe the use of a verification audit in its supplemental plan, if desired.

FEA shall use the findings of a verification audit to determine that a site-specific application of a modification which is not an approved energy measure meets the requirements for an energy measure. An energy measure is "approved" if it is on a list of energy measures published by FEA pursuant to Section 365(e)(1) of the Energy Policy and Conservation Act. A verification audit may also be required by FEA or other Federal agencies in the administration of a particular Federal program. If Federal programs are developed to foster the installation of energy measures, the administering Federal agency may use an energy audit to provide an appropriate analysis of the costs, energy use changes

and energy cost changes associated with a particular modification to an existing building or industrial plant.

A verification audit shall be site-specific, performed as prescribed in proposed § 450.21, conducted by an auditor who is qualified in accordance with proposed § 450.22, and conducted at no cost or at a reasonable cost to the owner, operator or occupant of a building or industrial plant as provided in proopsed § 450.23. A distinction is made between a verification audit of a building and that of an industrial process, where appropriate.

Proposed § 450.21 prescribes requirements for (a) describing the energy consumption of a building system or industrial process system before implementing a modification; (b) considering the effects of modifications which will result in reducing energy costs; (c) computing the costs of purchasing and installing a modification and the resulting energy savings, improvements in the efficiency of energy use, and energy cost savings; and (d) reporting on the findings of a verification audit.

A. SCOPE OF REPORTING REQUIREMENTS

The reporting requirements for a verification audit are not designed to povide proof that the measure which is the subject of the audit is the most cost-effective option available. Such a requirement would be burdensome, costly, and time-consuming. Instead, proposed § 450.21(b)(3) requires that the audit identify all modifications considered as an alternative to the modification which is the subject of the audit.

More explicitly, there is a further reason for choosing not to require a detailed assessment of alternative modifications that might reduce energy consumption. FEA has no desire to set up an application and review process that would require complex Federal supervision, impose higher costs by prescribing that an open-ended number of options be analyzed and reported on using rigorously defined procedures, and increase the likelihood of delay.

By requiring that the audit identify other modifications that have been considered, FEA assumes that there will have been appropriate consideration of other modifications in any event.

FEA is particularly interested in receiving comments on the proposal in § 450.21(b)(1) that only the measure being considered undergo detailed analysis in a verification audit.

The verification audit procedures are not intended to prescribe a methodology for conducting a sophisticated cash flow analysis that will determine for each building or industrial plant whether the installation of the particular modification would be a prudent management decision. Verification audit procedures are intended solely to provide a consistent technique to assess the cost and energy savings of energy measures consistent with FEA determinations discussed in proposed § 450.4.

This approach has been taken not only because it is impossible to develop a general methodology that would be appropriate in all cases but also due to a variety of statutory requirements regarding the analytical approach. For example, the Act provides that the reduced energy costs should be sufficient to recover the total cost of purchasing and installing the measure without regard to any tax benefits. Clearly, from a business standpoint, the prudent manager will consider the tax implications of implementation. Therefore, some financial analysis in addition to the verification audit will be necessary for an appropriate evaluation of the financial soundness of implementation of a modification.

B. PURCHASE AND INSTALLATION COSTS

Section 431 of the Act specifies that for a modification to be eligible for designation as an energy measure, it must be established that the modification is likely "to reduce energy costs * * * in an amount sufficient * * * to recover the total costs of purchasing and installing such measure * * *."

Under proposed § 450.21(d)(1) FEA proposed to include in the total costs of purchasing and installing a modification the costs associated with purchasing and installing it, including principal and interest payments on debt incurred, less the salvage value of any equipment being replaced. Also included are the costs of purchasing and installing those replacements of significant components and parts necessary to the achievement of the modification's attributed life, less the costs of replacing existing equipment or its significant components which would have been required—over the modification's attributed life—had the modification not been installed. FEA includes the cost of replacing significant components and parts (e.g., the compressor on a heat pump) as these replacement components then become integral parts of the installed modification.

Not included in total costs are the operation and maintenance costs associated with a modification as compared to those which would have been incurred had the modification not been implemented. If changes in maintenance costs associated with the modification were to be excessive (e.g., greater than 2 percent of the purchase and installation costs for each year of the attributed life of the modification), their omission could distort the cost computations. However, it would be very difficult to prescribe the nature of those changes which should be analyzed and, in some cases, to conduct this analysis as part of a verification audit. FEA proposes not to require consideration of normal operation and maintenance costs in the conduct of an energy audit.

FEA proposes a computational technique that will adequately account for the items in total costs. The technique requires the conversion to present values of total costs and the future energy cost savings resulting from the modification. The present values of costs are subtracted from the present values of energy savings to determine the net present value of implementing the modification.

FEA proposes to use a simple standard net present value (NPV) technique to determine whether the reductions in energy costs are sufficient to recover, within its attributed life, the total cost of implementing the modification, as defined in this part. The present value of the savings minus the present value of the costs gives the NPV of the investment. The requirement for qualification of a modification as an energy measure would be met if the NPV is not negative for the energy measure's attributed life.

Estimated replacement component costs and the value of energy savings will be expressed in constant dollars, using the same base year as used in Appendix A, FEA's latest projections of energy prices. To convert a future cost savings to present value, the method uses a discounting rate of 10 percent, a rate which represents an estimate of the average rate of return on private investment, before taxes and after inflation as discussed in OMB Circular No. A-94, Revised, March 27, 1972. Principal and interest payments in any time period should be treated just as any other costs to be paid in that time period and discounted to their present value using the 10 percent discounting rate.

This technique can be used by anyone with an understanding of calculating the net present value of future expenditures and savings. It obviates the use of uncertain projections of inflationary or deflationary trends. It permits use of future fuel prices and estimated component and labor costs, and interest costs. The auditor calculating costs thus has a standard method to use in calculating net present value. The use of a 10 percent discounting rate is the normal Federal procedure for comparing receipts and costs that will occur at different times. Accordingly FEA feels its approach is both valid and appropriate.

An alternative technique considered for calculating whether a modification would meet the cost recovery requirements was the use of a variation of the simple payback technique. This would have compared the total energy cost savings (in constant, but not discounted, dollars) over the modification's attributed life to the modification's installation costs, as adjusted by a factor to account for interest accrued for debt incurred to install it. It would have varied from the usual payback approach in that it would not result in an estimate of the actual payback period.

The adjusted costs would be calculated by adding the equal annual payments which would have accrued had a real rate of interest been applied to the principal amount of the loan over its life. For example, for a real rate of interest of 5 percent on a four year, $10,000 loan, the adjusted amount would have been $11,280 $=4\times\$10{,}000\times.282$ (.282 is the capital recovery factor for a 5 percent, four year loan).

This technique has the advantages of giving explicit consideration to interest costs and not requiring the year-by-year discounting of future costs and benefits. However, because this approach does not account for the time costs of money and is inconsistent with standard business

and Federal Government practices for comparing alternative investments, it is not being proposed.

FEA also considered the use of other rates, either for the purpose of discounting future cost savings or for adjusting installation costs.

Consideration was given to using 5 percent so that relatively long-lived modifications might qualify as energy measures, or allowing the use of different rates depending on whether the modifications were to be installed in an industrial plant, commercial or residential building, or a single family dwelling. However, the use of a lower discount rate would be inconsistent with the rate used in conjunction with Federal programs and would not properly reflect the return on investment normally expected in the private sector. The use of different rates of discount for different sectors, FEA felt, would result in needless complication and lead to inconsistencies. For example, the same modification might qualify as an energy measure for one business use and be ineligible for another even if the energy savings were identical for both applications.

FEA is particularly interested in receiving comments on those cost items proposed for consideration in the calculation of total purchase and installation costs; the possible inclusion of operating and maintenance costs in total purchase and installation costs; the method of comparing costs and energy cost savings; and the use of a 10 percent rate for discounting purposes in assessing modifications.

C. COMPUTATION OF ENERGY CONSUMPTION PATTERNS

In establishing improvements in energy efficiency, FEA has specified in proposed § 450.21(b)(4) that they will be determined by comparing the projected annual energy consumption, by fuel type, which would occur if the modification were implemented to that which would occur if the modification were not implemented. The level of conversion from depletable to nondepletable energy resources will be calculated by subtracting the amount of depletable energy consumed with the modification from the amount which is projected to be consumed without it. These calculations will be made for each year of the attributed life of the modification.

FEA recognizes that implementation of other modifications for which Federal program approval is not requested may affect the magnitude of the consumption changes resulting from implementation of the modification for which the audit is being conducted. For example, if in addition to a new furnace, which is the subject of an audit, an owner plans to install insulation, the effect of such insulation must be accounted for when calculating the amount of energy which would be consumed with and without the furnace. Therefore, FEA is requiring that, for verification audits, other modifications to be implemented be identified and described. All such modifications must be taken into account as prescribed by this part in making projections of future energy consumption.

FEA rejected the alternative approach of basing projected consumption without the subject modification on current conditions and comparing it to that which would occur if the subject modification were implemented in combination with other modifications. While this approach has the advantage of being easy to apply, it would not allow a valid determination of the savings that are a direct result of implementing the subject modification and, therefore, would not provide for a valid determination of whether that modification meets the requirements for designation as an energy measure or other program requirements.

However, FEA, in its discretion with respect to a particular program, may consider cumulative energy savings of all modifications to be undertaken in determining whether to provide Federal financial assistance. FEA does not seek to create any disincentives to the implementation of energy measures through private initiative, but endeavors to encourage such actions.

FEA is particularly interested in receiving comments on its proposed technique in § 450.21(b) for calculating the changes in energy consumption patterns attributable to the modification which is the subject of a verification audit.

VI. COST OF ENERGY AUDITS

The Act requires that these rules assure that energy audits carried out pursuant to its provisions impose (1) no direct costs upon individuals who are occupants of dwelling units in any State having a supplemental plan and (2) only reasonable costs, as determined by FEA, with respect to other persons. For information audits, proposed § 450.14(a), and for verification audits, proposed § 450.23(a), require that an energy audit be conducted at no direct cost to the occupant of a dwelling unit.

With respect to an information audit performed for other parties, proposed § 450.14(b) provides that the cost shall not exceed 7 percent of the annual fuel bill. However, a State may prescribe procedures which would permit a greater percentage in exceptional circumstances. FEA is concerned that financial assistance for supplemental plans earmarked to encourage development and use of energy audits be prudently expanded. Imposing additional restrictions upon a State with respect to cost of audits or type of audits was considered. At this time, however, no additional restrictions are imposed to encourage innovation and local initiative, except that the supplemental guidelines prohibit payment of auditors carrying out Class A audits with program funds provided through Federal financial assistance.

Proposed § 450.23(b) limits reasonable costs of verification audits conducted for parties other than those covered by proposed § 450.23(a) to no more than 7 percent of the annual cost of energy used in the building or industrial plant, except in those cases where FEA finds, on the basis of case-by-case review, that the audited building or industrial plant exhibits truly unique or unusually complex characteristics.

In developing this standard for reasonable cost, FEA considered the options of relating reasonable cost to (1) the qualifications of, and time spent by, the persons involved in conducting the audits, (2) the complexity of the building or industrial process being audited, (3) the amount of energy cost savings to be derived from implementing the audit's findings, and (4) the cost of implementing its recommendations.

FEA does not believe that sufficient information currently exists to develop a reasonable fee structure for persons having certain qualifications or to estimate the time required for individual audits. Therefore, in addition to its reluctance to prescribe guidelines that could be interpreted as a fee schedule, FEA has determined that basing reasonable cost determinations on the level of professional effort is not possible at the present time.

For a similar reason, i.e., the lack of adequate information regarding the costs and results of energy audits for buildings and industrial plants of varying types and complexity, it is not possible to relate reasonable costs to the characteristics of a building or industrial plant.

Finally, FEA does not support a criterion that would define reasonable cost in terms of the audit's findings regarding savings to be achieved or the cost of implementation of an energy measure. The use of this type of criterion would not be conducive to sound business practice because the cost of the auditor's services would be undetermined until after such services were provided.

Instead, the regulation specifies that the cost of the audit will be "reasonable" for purposes of the Act if it does not exceed 7 percent of the annual cost of energy used in the building or industrial plant to be modified. This determination is based on knowledge regarding a number of audits that have been conducted on various types of facilities, most of which cost less than 5 percent of the annual energy costs. However, because there are isolated instances in which the costs exceeded 5 percent and because the cases for which information is available cannot be held as representative of all possible energy audit applications, a figure of 7 percent is used. By holding 7 percent as an upper bound, the regulation encourages parties seeking an energy audit to use careful judgment in selecting the auditor, defining the scope of the audit, and negotiating the final cost with the auditor. By allowing for exceptions to this upper limit based on FEA's finding that the facility being audited exhibits unique or unusually complex characteristics, FEA recognizes the probability of isolated cases in which the conduct of a technically sound audit imposes costs greater than 7 percent of the annual energy costs.

FEA is particularly interested in receiving comments on the proposed ap-

proach to reasonable costs in § 450.14 and § 450.23.

VII. Qualifications of Auditors

The States are given considerable discretion in developing standards by which a person will be designated as qualified to conduct Class A information audits of various types of buildings and industrial plants, subject to the approval of FEA. The regulation does prescribe specific qualifications for a person who wishes to conduct a verification audit. Proposed § 450.22 requires that to be considered qualified to conduct a verification audit, a person must either (1) be licensed as a professional engineer or architect by the State in which the audit is performed, or (2) have an engineering degree from an accredited college or university plus four years of relevant experience.

Two other options were considered. On the one hand, FEA could have stipulated that only licensed professional engineers and architects are qualified to conduct verification audits. It was decided, however, that this would be too restrictive to be used in connection with Federal programs which are intended to accelerate the adoption of energy measures. Thus, it was decided to allow graduates of accredited engineering schools to conduct verification audits if they have experience relevant to the building or industrial plant being audited and are willing to certify to this effect in the report of an audit.

The other option considered was the establishment of procedures for FEA accreditation of persons authorized to conduct verification audits, combined with a Federal training program to assure a supply of such approved auditors.

This was considered inappropriate because it would require the Federal Government to expend resources establishing a potentially cumbersome accreditation program that would duplicate many of the professional accreditation procedures that currently exist at the State level; and, in the short term, would inhibit the conduct of verification audits because of the time required to design and implement such accreditation procedures.

FEA is particularly interested in receiving comments on whether the two classes of persons described in proposed § 450.22(a), or others, should be deemed qualified to conduct verification audits and on procedures which could be used to screen the qualifications of persons in any other classes.

VIII. Conflict of Interest

With respect to Class A information audits, a State shall provide conflict of interest procedures as part of its supplemental plan, subject to FEA approval.

With respect to a verification audit, proposed § 450.22(c) requires the disclosure by an auditor of any significant financial interest held by the auditor and his or her spouse or children, in the manufacturing (including manufacturing of major components), marketing, installing or servicing of the modification, or in the ownership or operation of the building or industrial plant, that is the subject of the audit. The regulation also identifies the financial interests that FEA considers significant.

The regulation further requires that the disclosure be made in writing to the person for whom the verification audit is to be performed before the audit is begun. Furthermore, a copy of the disclosure statement is to accompany the submission of an audit report to the Federal Government, which may rely on its contents. Proposed § 450.22(e)(2) requires that the auditor certify in the audit report that the auditor has made a full written disclosure of significant financial interests to his client.

The disclosure statement will alert both the person for whom the audit is performed, and any Federal agency which may consider the audit report, to the possibility that an auditor's findings may be influenced by personal financial interests. However, FEA is proposing not to prohibit an auditor who has a significant financial interest from performing a verification audit.

Although such a prohibition would guarantee preparation of the audit by a disinterested auditor, there are certain countervailing considerations. One consideration is that this could limit the number of people qualified to perform audits. The persons most highly skilled and qualified may already be associated with financial interests in the field of energy conservation or with the management of the building or plant being audited. Any Federal energy conservation programs in connection with which audits are to be performed will be intended to accelerate the adoption of energy measures, and this prohibition could work to delay or deter businesses from implementing energy measures.

Another consideration is that business enterprises which are engaged in the manufacturing, marketing, installing or servicing of a particular energy measure might be willing to perform audits for a client at a reduced cost or at no cost. A financial interest prohibition might discourage some persons from applying to participate in a Federal program for fostering the implementation of energy measures because they may not be able or willing to pay for an audit when there is no certainty that their applications will be approved.

FEA also considered the question of whether to require disclosure of financial interests held by members of the auditor's family, and if so, which members. FEA has decided that it is desirable to hold an auditor responsible for disclosure of the financial interests of a spouse or child on the ground that it is highly probable their financial interests are known to the auditor and on the ground that, if the auditor does not know, the information needed to comply with this part can easily be obtained.

Another alternative that FEA considered was whether a financial interest in a business enterprise engaged in the manufacturing, marketing, installing or servicing of an energy measure other than the energy measure which is the subject of the audit should be required to be disclosed. This alternative was not adopted on the ground that there would most likely be no conflict of interest in that case.

FEA also considered the question of whether to exclude from the disclosure requirement a financial interest in a business enterprise in which less than a certain percentage of gross receipts is generated by sales or services related to the energy measure which is the subject of the audit. This alternative was not adopted because its application is not quantifiable. For example, a manufacturer entering into production of a new energy measure may have no gross receipts whatsoever with respect to sale of the energy measure.

However, the manufacturer's interest in promoting the sale of the energy measure may, at the very least, be considered to be significant.

FEA is particularly interested in receiving comments on whether otherwise qualified individuals having the types of financial interests described in proposed § 450.22(b), or others, should be prohibited from performing verification audits.

IX. Certification in Verification Audit Report

Proposed § 450.22(e) requires that the auditor, as part of a verification audit report, certify that he is qualified to perform the audit, has made a full disclosure of financial interest, has conducted the audit in accordance with the regulation, and has accurately described the findings in the report. In addition, the auditor must indicate an understanding that the report may be submitted to an agency of the Federal Government for official action. Any false representations or concealment of material facts in the areas certified to may subject the auditor to criminal prosecution under 18 U.S.C. Section 1001. Conviction under this criminal provision is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

X. Comment Procedure

A. Written comment procedures

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed rules set forth in this notice to Executive Communications, Room 3309, Federal Energy Administration, Box LQ, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation "Proposed Energy Audit Regulation." Fifteen copies should be submitted. All comments received by May 13, 1977, before 4:30 p.m., e.d.t., and all other relevant information, will be considered by FEA before final action is taken regarding the proposed regulation.

Any information or data considered by the person furnishing it to be confi-

dential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. PUBLIC HEARINGS

FEA has determined that in addition to holding a public hearing on this proposal in Washington, D.C., it will hold public hearings in Kansas City, Missouri and San Francisco, California. In addition, FEA will welcome oral presentation on this proposal at the public hearings it has scheduled in each of the 10 FEA regions on its proposed supplemental State energy conservation plan guidelines. The schedule for these hearings, which will occur between April 19, 1977 and April 23, 1977, was published along with the proposed guidelines in the FEDERAL REGISTER, 42 FR 16150, on March 25, 1977. However, written comments shall be sent to Box LQ at the address provided above and shall be identified with the designation "Proposed Energy Audit Regulation."

1. *National hearing.* The Washington, D.C., hearing (hereinafter referred to as the National hearing) will be held beginning at 9:30 a.m., e.d.t., May 10, 1977, at 2000 M Street, N.W., Room 2105, Washington, D.C. The hearing will be continued, if necessary, on May 11, 1977. Any person who has an interest in this proceeding or who is a representative of a group or class of persons that has an interest in this proceeding may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communcations, FEA, Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.d.t., on April 25, 1977. A request may be hand-delivered between the hours of 8 a.m., and 4:30 p.m., Monday through Friday. Requests should be submitted in accordance with the "Request Procedures" set forth below.

2. *Regional hearings.* Both of the regional hearings will be held beginning at 9:30 a.m., local time, on the dates and at the locations specified below.

Any person who has an interest in this proceeding or who is a representative of a group or class of persons that has an interest may make a written request for an opportunity to make an oral presentation. Such a request should be directed to FEA at the address given below for the appropriate region, and in accordance with the "Request Procedures" set forth below. Requests must be received before 4:30 p.m., local time, on April 27, 1977.

City	Hearing date	Submit requests to testify to—	Hearing location
Kansas City, Mo.	May 12	FEA, 1150 Grand Ave., Kansas City, Mo. 64106.	Room 140, Federal Bldg., 601 East 12th St., Kansas City, Mo.
San Francisco, Calif.	May 13	FEA, 111 Pine St., 4th floor, San Francisco, Calif. 94111.	EPA conference rooms A and B, 2d floor 100 California St., San Francisco, Calif.

3. *Request procedure.* The following request procedures are applicable to both the National and regional hearings. Persons requesting an opportunity to make an oral presentation will submit their written requests to the appropriate address for the region in which they wish to appear. Requests should be labelled both on the document and on the envelope "Energy Audit Hearing."

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a phone number where she or he may be contacted through May 11, 1977, for regional hearings and May 9, 1977, for the National hearing. Each person selected to be heard will be notified by FEA before 4:30 p.m., local time, May 9, 1977, in the case of the regional hearings and by May 6, 1977, in the case of the National hearing. Each person selected to be heard must submit 100 copies, if feasible, of her or his statement to the Office of Regulation Development, FEA, Room 2214, 2000 M Street NW., Washington, D.C., before 9 a.m., e.d.t., May 10, 1977, for the National hearing and to the location of the hearing by 9 a.m., on the day the statement is scheduled to be presented, for regional hearings.

4. *Hearing procedures.* 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. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if she or he desires, to make a supplemental statement which will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person attending the hearing who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The presiding officer 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 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 a.m., and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

XI. COORDINATION WITH OUTSIDE PARTIES, ENVIRONMENTAL AND INFLATIONARY REVIEW

In preparing this proposed rulemaking, issues and options were reviewed not only internally within FEA but also by representatives from the Energy Research and Development Administration, representatives of the Department of Housing and Urban Development, and representatives of the Department of Commerce, including the National Bureau of Standards.

In accordance with FEA's obligations under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.), an evaluation of the potential environmental impacts of designating rules for the conduct of energy audits has been prepared by FEA. No "significant" environmental impacts have been identified as defined by NEPA.

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 (EPA) for his comments concerning the impact of this proposal on the quality of the environment. The Administrator has no comments.

NOTE.—The proposal has been reviewed in accordance with Executive Order 11821, and OMB Circular Number A-107, issued November 27, 1974, and has been determined not to be a major proposal requiring an evaluation of its inflationary impact.

In consideration of the foregoing, it is proposed to add a new Part 450 to Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., April 8, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

Subchapter D, Chapter II of Title 10, Code of Federal Regulations, is amended by establishing Part 450 as follows:

PART 450—ENERGY AUDITS

Subpart A—General Provisions

Sec.

450.1 Purpose and scope.
450.2 Uses of energy audits.
450.3 Definitions.
450.4 Qualifying conditions.

Subpart B—Information Audits

450.10 Purpose and scope.
450.11 Classes of and requirements for information audits.
450.12 Contents of information audits.
450.13 Auditors.
450.14 Cost of information audits.

Subpart C—Verification Audits

Sec.
450.20 Purpose and scope.
450.21 Contents of verification audits.
450.22 Auditors.
450.23 Cost of verification audits.

AUTHORITY: Energy Conservation and Production Act, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163; Federal Energy Administration Act of 1974; as amended, Pub. L. 93-275 and Pub. L. 94-385; E.O. 11790, 39 FR 23185.

Subpart A—General Provisions

§ 450.1 Purpose and scope.

This part designates the types of, and requirements for, energy audits as required by the Federal Energy Administration, pursuant to Section 432(d) of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 et seq., which adds Section 365(e)(2), 42 U.S.C. 6325(e)(2), to the Energy Policy and Conservation Act, 42 U.S.C. 6201 et seq. This part also contains the projections of future energy prices which shall be used in calculating the changes in energy costs which will result from installation of a particular modification in a building or industrial plant, and includes the criteria for determining whether the installation of a particular modification meets certain requirements of the Act for designation as an energy measure.

§ 450.2 Uses of energy audits.

The requirements of this part shall be used—

(a) To establish minimum requirements for the type of energy audit to be carried out under a supplemental plan;

(b) To measure the energy and cost savings to be derived from the installation or implementation of an energy measure; and

(c) To provide a process to identify a modification of a designated building or industrial plant as an energy measure for purposes of the Act.

§ 450.3 Definitions.

As used in this part—

"Administrator" means the Administrator of the Federal Energy Administration.

"Appliance" means an energy consuming article or device designed for household use the primary purpose of which is labor saving or personal convenience and which, although connected to public utilities servicing the building, is not attached to a building such that it would be considered part of the building or building system; for example, room air conditioners, room heat pumps, room heaters, refrigerators, refrigerator-freezers, clothes washers and dryers, dish-washers, kitchen ranges and ovens, and television sets. Energy consuming articles or devices not classified as an appliance and considered part of a building or building system include, but are not limited to water heaters, central heat pumps, central air conditioners, and central heating units.

"Approved" means, with respect to an energy measure, any modification which is included on a list of energy measures published by FEA pursuant to section 365(e)(1), 42 U.S.C. 6325(e)(1), of the Energy Policy and Conservation Act.

"Attributed Life" means, with respect to an energy conservation measure, the time period which is equal to either the useful life or 15 years, whichever is less or, with respect to a renewable-resource energy measure, the time period which is equal to either the useful life or 25 years, whichever is less.

"Auditor" means any person or persons who conduct an energy audit which is represented to be in conformance with this regulation.

"British Thermal Unit" means the amount of heat required to raise the temperature of one pound of water one degree Fahrenheit.

"Btu" means British thermal unit or units.

"Building" means any structure which includes a heating or cooling system, or both, or a hot water system, and which was constructed prior to August 14, 1976.

"Building Envelope" means all external surfaces, such as walls, doors and windows, roof, and floors in contact with the ground, of a building which are affected by weather.

"Depletable Energy Resource" means a fossil fuel or nuclear fission fuel.

"Distillate Fuel Oil" means any fuel oil, gas oil, topped crude oil, or other petroleum oils, except refined petroleum wax, derived by refining or processing crude oil or unfinished oils, in whatever type of plant such refining or processing may occur, which have a boiling range at atmospheric pressure which falls completely or in part between 550° and 1,200° F.

"Dual-Purpose Power Plant" means an equipment configuration which produces both electricity and useful thermal energy and which consumes, exclusive of the fuel required to produce the useful thermal energy, less than 7,500 Btu of fuel per kilowatt-hour of electricity produced.

"Dwelling Unit" means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

"Energy Audit" means a process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of particular energy conservation measures or renewable-resource energy measures and which is carried out in accordance with this part.

"Energy Conservation Measure" means a measure which modifies any building or industrial plant, the construction of which has been completed prior to August 14, 1976, if such measure has been determined by means of an energy audit or by FEA, by rule, to be likely to improve the efficiency of energy use and to reduce energy costs in an amount not less than the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto), within the period of—

(1) The useful life of the modification involved; or

(2) Fifteen years after the purchase and installation of such measure, whichever is less.

Such terms does not include the purchase or installation of any appliance, any conversion from one fuel or source of energy to another which FEA, by rule, determines is ineligible on the basis that such type of conversion is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels, or any measure or type of measure which does not have as its primary purpose an improvement in efficiency of energy use.

"Energy Measure" means an energy conservation measure or renewable-resource energy measure.

"Industrial Plant" means any fixed equipment or facility which is used in connection with, or as part of, a process or system for industrial production or output and which was constructed prior to August 14, 1976.

"Industrial Process" means an action or series of actions in connection with, or part of, a process or system contributing to the production or output of an industrial plant.

"Liquefied Petroleum Gas" means propane and butane, and propane/butane mixes but not ethane.

"LPG" means liquefied petroleum gas.

"Modification" means a measure which changes a building or industrial plant, the construction of which was completed prior to August 14, 1976.

"Nondepletable Energy Resource" means a type of energy other than a depletable energy resource.

"Renewable-Resource Energy Measure" means a measure which modifies any building or industrial plant, the construction of which has been completed prior to August 14, 1976, if such measure has been determined by means of an energy audit or by FEA, by rule, to—

(1) Involve changing in whole or in part, the fuel or source of the energy used to meet the requirements of such building or plant from a depletable source of energy to a nondepletable source of energy; and

(2) Be likely to reduce energy costs in an amount not less than the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto), within the period of—

(i) The useful life of the modification involved, or

(ii) Twenty-five years after purchase and installation of such measure, whichever is less. Such term does not include the purchase or installation of any appliance.

"Residual Fuel" means No. 4 fuel oil, No. 4-D fuel oil, those fuel oils commonly known as American Society for Testing Materials No. 5 and No. 6 fuel oils, heavy diesel, Navy diesel, Bunker C and all other fuel oils which have a fifty percent boiling point over 700° F in the American Society for Testing Materials D-86 standard distillation test.

"Supplemental Plan" means a supplemental State energy conservation plan which is eligible for financial assistance

under Part 420, Subchapter D, Chapter II of Title 10, Code of Federal Regulations.

"Useful Life" means that period of time for which a modification used under specified conditions is able to fulfill its intended function, and which does not exceed the period of remaining use of the building or that element of the industrial plant, which is being modified.

§ 450.4 Qualifying conditions.

(a) A modification has as its primary purpose an improvement in energy use efficiency only if the costs of the purchase and installation of the modification will be recovered by the projected energy cost savings associated with improving the efficiency of energy use over the attributed life of the modification.

(b) A modification is determined to result in an ineligible conversion if its implementation would result in an increase, expressed in Btu, at the building or industrial plant site, in the consumption of petroleum products, natural gas, or a combination of the two.

(c) An increase in the consumption of petroleum products at a building or industrial plant site shall not be an ineligible conversion as provided by paragraph (b) of this section, if the increase will result from the installation of dual-purpose power plant equipment which FEA determines in a specific application produces an off-setting reduction in the consumption of petroleum products, natural gas, or a combination of them, at one or more sites.

(d) Projected prices for electricity, natural gas, distillate, residual fuel, LPG and coal shall be derived from either—

(1) The projected energy prices from 1977 to 1991 set forth in Appendix A, Tables 1–20 of this Part; or

(2) The following adjustment formulas—

(i) For petroleum products, coal, and natural gas:

$PA_t = PR_t - ((t-b)\cdot(PR_b - PA_b)/(1985-b))$, for $t<1985$.

$PA_t = PR_t$, for $t \geq 1985$.

Where—

PA_t = Projected fuel price for future year t.
PA_b = Fuel price actually paid in base year b.
PR_b = Regional fuel price for base year as set forth in Appendix A.
PR_t = Projected regional fuel price for future year t as set forth in Appendix A.
t = Future year for which fuel price is being projected.
b = Base year used in current FEA projection of fuel prices, as shown in Appendix A.

(ii) For electricity:

$PA_t = PR_t \cdot PA_b / PR_b$, for all years.

Where PA_t, PA_b, PR_b and PR_t have the same meaning as in subparagraph (d)(2)(i) of this section.

(e) Prices set forth in Appendix A, Tables 1–10 of this Part, expressed in dollars per physical unit, shall be converted to prices set forth in Appendix A, Tables 11–20, expressed in dollars per million Btu, by using the following conversion factors—

(1) Electricity—3412 Btu per kilowatt-hour.
(2) Natural Gas—1030 Btu per cubic foot.
(3) Distillate—5.825 million Btu per barrel.

Fuel Oil

(4) Residual Fuel—6.287 million Btu per barrel.
(5) Coal—22.5 million Btu per standard short ton.
(6) LPG—4.01 million Btu per barrel.

Subpart B—Information Audits

§ 450.10 Purpose and scope.

This subpart establishes the classes of and requirements for the conduct of information audits, the qualifications of persons conducting Class A information audits, and the allowable cost of information audits. Information audits are required to be provided for in supplemental State energy conservation plans pursuant to Part 420, Subpart D, Chapter II of Title 10, Code of Federal Regulations.

§ 450.11 Classes of and requirements for information audits.

(a) A Class A information audit shall consist of—

(1) An on-site visit at the building or industrial plant by an auditor who has qualifications considered appropriate by the State; and

(2) An evaluation by an auditor, supported by data, of the building or industrial plant's energy consumption and energy systems based on data such as heating and cooling degree days, fuel costs and other data considered appropriate by the State, which evaluation shall consist of either—

(i) An analysis of the energy and cost savings likely to result from the implementation of one or more modifications selected by the State, or

(ii) General recommendations regarding one or more modifications selected by the State accompanied by a workbook, manual, or other material allowing the owner, operator, or occupant of the building or industrial plant to calculate the energy and cost savings for those modifications.

(b) A Class B information audit shall consist of—

(1) Information provided by the owner, operator, or occupant of the building or industrial plant to the State, using a questionnaire provided by the State; and

(2) An evaluation whereby the information provided pursuant to paragraph (b)(1) of this section is analyzed by the State in such a way as to identify the energy and cost savings likely to result from not less than two modifications selected by the State, taking into account factors such as heating and cooling degree days, fuel costs and others considered appropriate by the State, and whereby the analysis is sent to the owner, operator or occupant of the building or industrial plant.

(c) A Class C information audit shall consist of—

(1) Using a workbook provided by the State, a calculation by the owner, operator, or occupant of the building or industrial plant of the energy and cost savings for each of not less than four modifications selected by the State, which calculations shall take into account factors such as heating and cooling degree days, fuel costs, and others considered appropriate by the State; and

(2) Any provision by the State of information relating to the building type or industrial plant, in the form of pamphlets, books, brochures or similar data regarding modifications which may prove to be energy conservation measures and renewable-resource energy measures.

§ 450.12 Contents of information audits.

(a) All three classes of information audits shall include an energy consumption description containing the following information—

(1) For a building—

(i) Actual energy consumption by type of fuel by month for the preceding 12 months, except that where actual energy consumption data are not available, estimates of actual energy consumption and an explanation of the derivation of the estimates;

(ii) Cost of energy by type of fuel for the preceding 12 months;

(iii) Building profile, including descriptions of—

(A) Location, climatic context, and immediate site conditions;

(B) Configuration, envelope, construction, and condition; and

(C) Heating, ventilating, air conditioning, hot water and lighting systems; and

(2) For an industrial plant—

(i) Actual energy consumption for both the plant's building operations and its industrial processes, by type of fuel by month for the preceding 12 months, except that where actual energy consumption data are not available, estimates of actual energy consumption and an explanation of the derivation of the estimates;

(ii) Cost of energy by type of fuel for the preceding 12 months;

(iii) Description of the plant's building characteristics, providing the information required by subparagraph (a)(1)(iii) of this section;

(iv) Profile of the plant's industrial processes, including a description of—

(A) The process layout and conditions within which it operates;

(B) Material storage, handling and processing; and

(C) All mechanical, electrical, hydraulic, and pneumatic systems, including those for waste handling; and

(v) Energy consumption of each process system by type of fuel.

(b) Each information audit shall identify and describe a modification sufficiently to enable the determination of the effects of the modification or combination of modifications on a building or industrial plant's energy consumption.

(c) Each information audit (1) shall identify and describe, by the procedures set forth in § 450.21 or other appropriate procedures, the total costs of purchasing and installing a modification, and the related energy and cost savings, as pre-

scribed by a State, subject to approval by FEA in the review of a State's supplemental plan and (2) shall indicate whether projected energy cost savings attributable to the modification are sufficient to recover the total cost of purchasing and installing the modification within its attributed life.

§ 450.13 Auditors.

The State shall establish the qualifications of those persons conducting Class A information audits, appropriate requirements and procedures to ensure that full disclosure of financial interests relating to each audit is made, and appropriate measures for certification by the auditor to assure that each audit has been conducted in accordance with this regulation. These provisions shall be subject to approval by FEA and made part of the supplemental plan submitted to FEA.

§ 450.14 Cost of information audits.

An information audit conducted under a supplemental plan shall—

(a) For an individual dwelling unit, be conducted at no direct cost to the occupants of that dwelling unit; and

(b) For any building or industrial plant not covered in paragraph (a) of this section, be conducted for a cost not to exceed 7 percent of the total cost of all energy used in the building or industrial plant during the 12 months preceding the audit, except that, subject to FEA review and approval, the State may establish procedures to permit information audit costs to exceed this limitation in those cases where the State finds that the buildings or industrial plants exhibit unique or unusually complex characteristics relating to energy use.

Subpart C—Verification Audits

§ 450.20 Purpose and scope.

This subpart prescribes guidelines for building and industrial process verification audits, which audits provide for a detailed analysis of the changes in energy use and costs likely to result from the implementation of a modification.

§ 450.21 Contents of verification audits.

(a) A verification audit shall contain an analysis of the actual or estimated energy consumption of the one or more building systems or industrial processes to be affected by the installation of a modification. The actual energy consumption of the building or industrial process shall be computed by type of fuel by month for a consecutive twelve-month period, if available. Information in a verification audit shall include, but not be limited to—

(1) Location, orientation, climatic context, and immediate site conditions;

(2) Operating characteristics, which shall include—

(i) For a building, a description of the building envelope, configuration, construction and condition, and daily hours of use; and

(ii) For an industrial process, a description of the plant, process and system layout, and operating conditions; and

(3) Actual energy consumption of the building or industrial process, by type of fuel per month, for the representative year selected, except that where actual energy consumption data are not available, estimates of actual energy consumption and a detailed explanation of the derivation of the estimates.

(b) A verification audit shall identify and describe—

(1) The modification which is the subject of the audit, including but not limited to—(i) The model and manufacturer; (ii) method of application for a building or industrial process; (iii) performance specifications which may include engineering drawings; (iv) useful life; (v) and for a modification under consideration as a renewable-resource energy measure, a description of the process by which the modification will convert one or more nondepletable energy resources to useful energy;

(2) All other modifications that are anticipated to be implemented by an owner, operator or occupant of the building or industrial plant that could influence the energy and cost savings associated with the modification for which the audit is being conducted;

(3) All alternative modifications considered in choosing to implement those identified in paragraphs (b) (1) and (b) (2) of this section;

(4) Future energy consumption for each year of the attributed life of the modification, by type of fuel, in terms of both units of fuel, such as kilowatt-hours of electricity or gallons of distillate fuel oil, and equivalent Btu, using the conversion factors pursuant to § 450.4 (e) under each of the following conditions—

(i) Without implementation of the modification identified in paragraph (b) (1) of this section, but including implementation of all of the modifications identified in paragraph (b) (2) of this section, if any, and

(ii) With implementation both of the modification identified in paragraph (b) (1) of this section and of all of the modifications identified in paragraph (b) (2) of this section, if any;

(5) For a modification under consideration as an energy conservation measure, the energy efficiency index shall be computed—

(i) For a building, by dividing the size of the building, expressed in terms of net square feet, by the number of Btu used in its operation; and

(ii) For an industrial process, by dividing the amount of production, consistently expressed in units, weight or volume, achieved by the industrial process being modified, by the number of Btu used in its operation;

(6) For a modification under consideration as an energy conservation measure, whether the energy efficiency index associated with the conditions prescribed in paragraph (b) (4) (ii) of this section is greater than the energy efficiency index associated with the conditions prescribed in paragraph (b) (4) (i) of this section, in which event the modification will be found to result in an improvement in the efficiency of energy use; and

(7) For a modification under consideration as a renewable-resource energy measure, whether the description of the modification establishes that nondepletable energy resources are converted to useful energy and if the number of Btu of depletable energy resources consumed under the conditions prescribed in paragraph (b) (4) (ii) of this section is less than the number of Btu of depletable energy resources consumed under the conditions prescribed in paragraph (b) (4) (i) of this section, in which event the modification will be found to result in a change from a depletable to a nondepletable energy resource.

(c) Costs and savings shall be presented in terms of constant dollars using the same base year as in the most current FEA projection of fuel prices set forth in Appendix A, Tables 1-20 of this Part. Future costs and savings shall be converted to present values using a discounting rate of 10 percent. Appendix B of this Part contains factors to be used in calculating the present value of future costs and savings at the 10 percent annual rate. Future costs and savings values are converted to present value by multipling each value by the discount factor for the year in which incurred.

(d) (1) Purchase and installation costs shall include—

(i) The costs of purchasing and installing the modification, including yearly principal and interest payments on debt incurred, converted to present value using the factors set forth in Appendix B of this Part, less any salvage value of existing equipment; and

(ii) Future purchase and installation costs for normal replacement of significant components and parts, less the cost of normal replacement of significant components and parts for existing equipment and less the cost which would be incurred for future replacement of existing equipment, calculated by year for the attributed life of the modification, which yearly costs shall be converted to present values by using the factors set forth in Appendix B of this Part.

(2) Energy cost savings shall be computed as follows—

(i) Fuel prices by type of fuel shall be derived for each year of attributed life of the modification using projected energy prices in accordance with § 450.4(d).

(ii) Future energy consumption, determined pursuant to paragraphs (b) (4) (i) and (ii) of this section, shall be multiplied by the fuel prices determined pursuant to paragraph (d) (2) (i) of this section to compute annual fuel costs with and without implementation of the modification. Reductions in fuel costs resulting from the installation of the modification shall be calculated by subtracting the annual fuel costs computed on the basis of the energy consumption determined pursuant to paragraph (b) (4) (ii) from those computed on the basis of paragraph (b) (4) (i), assuming no change in building size or production level. Values for each year of attributed

life shall be converted to present value, using the factors set forth in Appendix B of this Part.

(3) The net present value of implementing the modification shall be computed by subtracting implementation costs and the present value of replacement costs calculated in accordance with paragraph (d)(1) of this section from present value of energy cost savings calculated in accordance with paragraph (d)(2) of this section.

(e) A verification audit shall contain a finding that a modification will reduce energy costs sufficiently to recover purchase and installation costs within the attributed life of the modification if the net present value is either zero or a positive value.

(f) The contents of a verification audit shall be reduced to writing in the form of an audit report which shall contain the information and supporting documentation required by this section.

§ 450.22 Auditors.

(a) A person who conducts a building verification audit shall—

(1) Be a licensed professional engineer or architect, or

(2) Have an engineering degree from an accredited college or university in addition to four years of subsequent experience in one or more of the following—

(i) Heating, ventilation and air conditioning installation or design work;

(ii) Building operations, including operation of the environmental systems; or

(iii) design of the building systems which are to be modified.

(d) A person who conducts an industrial process verification audit shall—

(1) Be a licensed professional engineer, or

(2) Have an engineering degree from an accredited college or university in addition to four years of subsequent experience in the design or operation of the particular industrial process being audited.

(c) Prior to conducting a verification audit, the auditor shall disclose in writing to the person for whom the audit is to be performed any significant financial interest held by the auditor, the auditor's spouse, or any child of the auditor, in a partnership, corporation, sole proprietorship, or other business enterprise engaged in the manufacturing, including manufacturing of major components, marketing, installing or servicing, of the modification which is the subject of an audit, or in the ownership or operation of the building or industrial plant which is the subject of an audit. A copy of the disclosure statement shall be signed by the auditor and shall accompany submission of the energy audit report or any portion thereof to FEA or any other agency, department or other instrumentality of the Federal Government.

(d) A financial interest shall be significant for the purposes of this section if it is one of the following—

(1) Employment, including employment as a consultant, by a partnership, corporation, sole proprietorship, or other business enterprise engaged in the manufacturing, marketing, installing or servicing of the modification which is the subject of an audit or in the ownership or operation of the building or industrial plant which is the subject of an audit;

(2) Ownership of 10 or more percent of the stock, including options to purchase stock, or other securities issued by a corporation, or of 10 or more percent financial interest in any other business enterprise engaged in the manufacturing, marketing, installing or servicing of a modification which is the subject of an audit or in the ownership or operation of the building or industrial plant which is the subject of an audit;

(3) A position as a director or officer of a corporation or partner in a partnership or active principal in a consortium or any other business enterprise engaged in the manufacturing, marketing, installing or servicing of a modification which is the subject of an audit or in the ownership or operation of the building or industrial plant which is the subject of an audit;

(4) Participation in the profit-sharing program of a partnership, corporation, or other business enterprise engaged in the manufacturing, marketing, installing or servicing of a modification which is the subject of an audit or in the ownership or operation of the building or industrial plant which is the subject of an audit; or

(5) Ownership of patent rights or other industrial property interests or the receipt of royalties therefrom for the manufacturing, installing, or servicing of a modification which is the subject of an audit.

(e) Each verification audit report shall include a statement signed by the auditor certifying that—

(1) The auditor meets the qualifications set forth in paragraphs (a) and (b) of this section;

(2) The auditor has made a full written disclosure of any significant financial interests in accordance with paragraph (c) of this section;

(3) The audit was conducted in accordance with the requirements of Subpart C of this part;

(4) The audit report required by § 450.21(e) and accompanying documentation accurately describe the audit findings; and

(5) The auditor understands that the report will be submitted to a department or agency of the United States which may rely on the contents of the material prepared by the auditor.

§ 450.23 Cost of verification audits.

(a) A verification audit shall be conducted without cost to the occupant of a dwelling unit.

(b) The cost of a verification audit for a building or industrial plant not covered in paragraph (a) of this section shall not exceed 7 percent of the cost of all energy consumed in that building or industrial plant in the 12 months preceding the audit. FEA may grant an exception to this limitation when requested if it determines upon specific review of a proposed audit that the audited building or plant exhibits unique or unusually complex characteristics relating to energy use and that the audit will therefore be unusually costly to perform.

APPENDIX A—ENERGY PRICE PROJECTIONS

Tables 1–20 present FEA energy price projections in constant 1977 (Base Year) dollars for the years 1975 to 1991. The prices were developed from the most current Reference Case results of the Project Independence Evaluation System (PIES). These prices will be revised and reissued periodically. Abbreviations and other information pertinent to use of the tables are as follows:

1. Tables 1–10 show energy prices by fuel unit.

2. Tables 11–20 show energy prices per million Btu.

3. For the years following 1991, use 1991 prices.

4. FEA regions are comprised of the following:

Region I—New England: Maine, New Hampshire, Vermont, Rhode Island, Connecticut, Massachusetts.

Region II—New York/New Jersey: New York, New Jersey, Puerto Rico[1] Virgin Islands.[1]

Region III—Mid-Atlantic: Pennsylvania, Delaware, Maryland, Virginia, West Virginia, District of Columbia.

Region IV—South Atlantic: North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi, Canal Zone.[1]

Region V—Midwest: Michigan, Ohio, Indiana, Wisconsin, Minnesota, Illinois.

Region VI—Southwest: Arkansas, Louisiana, Oklahoma, Texas, New Mexico.

Region VII—Central: Iowa, Missouri, Nebraska, Kansas.

Region VIII—North Central: North Dakota, South Dakota, Montana, Wyoming, Colorado, Utah.

Region IX—Western: Nevada, Arizona, California, Hawaii, American Samoa,[1] Guam,[1] Trust Territory of the Pacific Islands.[1]

Region X—Northwestern: Idaho, Washington, Oregon, Alaska.

5. Column heading abbreviations mean as follows:

Res.—Residential Customer.
Comm.—Commercial Customer.
Ind.—Industrial Customer.
Elect.—Electricity.
N. Gas—Natural Gas.
Dist.—Distillate Fuel Oil.
Resid.—Residual Fuel Oil.
L.P.G.—Liquefied Petroleum Gas.
$/MKWH—Dollars per thousand kilowatt-hours.
$/MCFT—Dollars per thousand cubic feet.
$/BBL—Dollars per barrel.
$/MEST—Dollars per standard short ton (22.5 million Btu per ton).

[1] Price projections not yet available. Until such time as they are made available, regional prices shall be applicable.

TABLE 1
ENERGY PRICES IN 1977 DOLLARS PER FUEL UNIT
FEA REGION I NEW ENGLAND
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT. $/MKWH	COMM. ELECT. $/MKWH	IND. ELECT. $/MKWH	RES. N. GAS $/MCFT	COMM. N. GAS $/MCFT	IND. N. GAS $/MCFT	RES. DIST. $/BBL	COMM. DIST. $/BBL	IND. DIST. $/BBL	COMM. RESID. $/BBL	IND. RESID. $/BBL	RES. LPG $/BBL	IND. LPG $/BBL	IND. COAL $/MEST
1975	49.58	48.27	35.32	3.47	2.88	2.44	20.06	17.75	17.75	14.66	14.73	15.61	13.32	28.46
1976	49.60	48.39	36.00	3.47	2.87	2.77	20.23	18.12	18.11	15.37	15.49	15.31	13.29	30.74
1977	49.62	48.51	36.68	3.47	2.86	3.10	20.40	18.49	18.48	16.07	16.24	15.02	13.27	33.02
1978	49.64	48.64	37.36	3.47	2.85	3.44	20.58	18.85	18.85	16.77	17.00	14.72	13.24	35.29
1979	49.67	48.76	38.04	3.47	2.84	3.77	20.75	19.22	19.21	17.48	17.76	14.42	13.22	37.57
1980	49.69	48.88	38.72	3.48	2.83	4.10	20.92	19.59	19.58	18.18	18.51	14.12	13.19	39.85
1981	49.55	48.84	39.28	3.64	2.99	3.90	21.05	19.72	19.71	18.21	18.54	14.32	13.40	40.19
1982	49.41	48.80	39.84	3.80	3.15	3.69	21.17	19.84	19.83	18.23	18.56	14.52	13.61	40.54
1983	49.26	48.77	40.40	3.96	3.31	3.49	21.30	19.97	19.96	18.26	18.59	14.72	13.82	40.89
1984	49.12	48.73	40.96	4.12	3.47	3.28	21.42	20.09	20.08	18.28	18.61	14.93	14.04	41.23
1985	48.99	48.69	41.51	4.28	3.63	3.08	21.55	20.22	20.21	18.30	18.63	15.13	14.25	41.58
1986	49.34	49.14	42.57	4.46	3.81	3.26	21.82	20.49	20.48	18.42	18.75	15.39	14.51	41.83
1987	49.69	49.59	43.62	4.64	3.99	3.44	22.09	20.76	20.75	18.55	18.88	15.66	14.78	42.07
1988	50.05	50.05	44.67	4.82	4.17	3.62	22.36	21.03	21.02	18.67	19.00	15.92	15.04	42.32
1989	50.40	50.50	45.72	5.00	4.35	3.80	22.63	21.30	21.29	18.79	19.12	16.19	15.31	42.57
1990	50.75	50.95	46.77	5.18	4.53	3.98	22.90	21.57	21.56	18.91	19.24	16.45	15.57	42.82
1991	50.75	50.95	46.77	5.18	4.53	3.98	22.90	21.57	21.56	18.91	19.24	16.45	15.57	42.82

TABLE 2
ENERGY PRICES IN 1977 DOLLARS PER FUEL UNIT
FEA REGION II NEW YORK/NEW JERSEY
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT. $/MKWH	COMM. ELECT. $/MKWH	IND. ELECT. $/MKWH	RES. N. GAS $/MCFT	COMM. N. GAS $/MCFT	IND. N. GAS $/MCFT	RES. DIST. $/BBL	COMM. DIST. $/BBL	IND. DIST. $/BBL	COMM. RESID. $/BBL	IND. RESID. $/BBL	RES. LPG $/BBL	IND. LPG $/BBL	IND. COAL $/MEST
1975	55.70	56.00	30.33	2.83	2.30	1.71	18.26	16.60	16.53	14.32	14.32	12.92	11.65	23.76
1976	55.28	56.12	30.38	2.91	2.37	1.76	18.85	17.24	17.17	15.20	15.32	13.20	11.97	26.48
1977	54.87	56.25	30.43	2.98	2.43	1.81	19.44	17.89	17.81	16.09	16.33	13.47	12.30	29.20
1978	54.45	56.37	30.48	3.06	2.50	1.86	20.04	18.53	18.45	16.97	17.34	13.74	12.62	31.93
1979	54.04	56.49	30.54	3.14	2.56	1.91	20.63	19.18	19.08	17.86	18.34	14.02	12.95	34.65
1980	53.62	56.62	30.59	3.21	2.63	1.96	21.22	19.82	19.72	18.74	19.35	14.29	13.28	37.37
1981	53.09	56.63	30.56	3.32	2.74	2.07	21.37	19.97	19.87	18.77	19.37	14.52	13.52	37.72
1982	52.56	56.63	30.53	3.44	2.85	2.18	21.52	20.13	20.03	18.79	19.40	14.75	13.75	38.07
1983	52.03	56.64	30.51	3.55	2.97	2.29	21.67	20.28	20.18	18.82	19.42	14.98	13.99	38.41
1984	51.50	56.65	30.48	3.66	3.08	2.41	21.83	20.43	20.33	18.84	19.45	15.21	14.23	38.76
1985	50.97	56.66	30.45	3.77	3.19	2.52	21.98	20.58	20.48	18.86	19.47	15.44	14.47	39.10
1986	50.99	57.22	30.97	3.92	3.34	2.66	22.25	20.85	20.75	18.99	19.59	15.70	14.73	39.35
1987	51.01	57.78	31.50	4.06	3.48	2.81	22.52	21.12	21.02	19.11	19.71	15.97	15.00	39.60
1988	51.03	58.34	32.02	4.21	3.63	2.95	22.79	21.39	21.29	19.23	19.83	16.23	15.26	39.85
1989	51.04	58.90	32.54	4.35	3.77	3.10	23.06	21.66	21.56	19.35	19.95	16.50	15.53	40.09
1990	51.06	59.45	33.07	4.50	3.92	3.24	23.33	21.93	21.83	19.47	20.07	16.76	15.79	40.34
1991	51.06	59.45	33.07	4.50	3.92	3.24	23.33	21.93	21.83	19.47	20.07	16.76	15.79	40.34

TABLE 3
ENERGY PRICES IN 1977 DOLLARS PER FUEL UNIT
FEA REGION III MID-ATLANTIC
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT. $/MKWH	COMM. ELECT. $/MKWH	IND. ELECT. $/MKWH	RES. N. GAS $/MCFT	COMM. N. GAS $/MCFT	IND. N. GAS $/MCFT	RES. DIST. $/BBL	COMM. DIST. $/BBL	IND. DIST. $/BBL	COMM. RESID. $/BBL	IND. RESID. $/BBL	RES. LPG $/BBL	IND. LPG $/BBL	IND. COAL $/MEST
1975	41.77	38.85	27.36	2.19	1.87	1.22	17.81	16.53	16.40	14.25	14.04	11.65	10.98	18.32
1976	41.60	38.78	27.69	2.30	1.96	1.36	18.70	17.24	17.25	15.51	15.25	12.40	11.59	21.63
1977	41.44	38.72	28.01	2.42	2.05	1.50	19.58	17.95	18.09	16.77	16.45	13.16	12.20	24.95
1978	41.27	38.65	28.34	2.53	2.13	1.63	20.47	18.66	18.93	18.03	17.66	13.92	12.81	28.26
1979	41.10	38.59	28.66	2.65	2.22	1.77	21.36	19.38	19.77	19.29	18.87	14.68	13.42	31.58
1980	40.93	38.52	28.98	2.76	2.31	1.90	22.24	20.09	20.61	20.55	20.07	15.44	14.03	34.90
1981	41.24	38.94	29.83	2.88	2.43	2.02	22.39	20.24	20.77	20.57	20.10	15.68	14.27	35.29
1982	41.56	39.37	30.67	2.99	2.54	2.14	22.55	20.39	20.92	20.60	20.12	15.91	14.50	35.69
1983	41.87	39.79	31.51	3.11	2.66	2.25	22.70	20.54	21.07	20.62	20.15	16.15	14.74	36.09
1984	42.18	40.21	32.36	3.23	2.78	2.37	22.85	20.69	21.22	20.64	20.17	16.39	14.98	36.48
1985	42.49	40.63	33.20	3.34	2.89	2.49	23.00	20.84	21.37	20.67	20.20	16.63	15.22	36.88
1986	42.76	41.01	33.99	3.46	3.01	2.60	23.27	21.12	21.64	20.79	20.32	16.89	15.48	37.08
1987	43.03	41.39	34.79	3.57	3.12	2.71	23.54	21.39	21.91	20.91	20.44	17.16	15.75	37.27
1988	43.30	41.77	35.59	3.69	3.24	2.83	23.81	21.66	22.18	21.03	20.56	17.42	16.01	37.47
1989	43.57	42.15	36.38	3.80	3.35	2.94	24.08	21.93	22.46	21.15	20.68	17.69	16.28	37.67
1990	43.83	42.53	37.18	3.92	3.46	3.06	24.35	22.20	22.73	21.27	20.80	17.95	16.54	37.87
1991	43.83	42.53	37.18	3.92	3.46	3.06	24.35	22.20	22.73	21.27	20.80	17.95	16.54	37.87

TABLE 9
ENERGY PRICES IN 1977 DOLLARS PER FUEL UNIT
FEA REGION IV SOUTH ATLANTIC
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT. $/MKWH	COMM. ELECT. $/MKWH	IND. ELECT. $/MKWH	RES. N. GAS $/MCFT	COMM. N. GAS $/MCFT	IND. N. GAS $/MCFT	RES. DIST. $/BBL	COMM. DIST. $/BBL	IND. DIST. $/BBL	COMM. RESID. $/BBL	IND. RESID. $/BBL	RES. LPG $/BBL	IND. LPG $/BBL	IND. COAL $/MEST
1975	30.74	32.20	19.82	1.69	1.34	0.94	17.94	16.53	16.40	12.72	12.86	10.98	10.15	21.78
1976	31.75	33.11	21.38	1.81	1.43	1.04	18.88	17.25	17.23	13.85	13.92	11.88	10.95	25.24
1977	32.76	34.02	22.95	1.93	1.52	1.14	19.82	17.96	18.07	14.97	14.97	12.78	11.75	28.71
1978	33.77	34.92	24.52	2.05	1.62	1.24	20.76	18.68	18.90	16.09	16.03	13.68	12.55	32.17
1979	34.78	35.83	26.09	2.18	1.71	1.34	21.70	19.39	19.73	17.21	17.08	14.58	13.36	35.64
1980	35.79	36.74	27.65	2.30	1.80	1.44	22.64	20.11	20.56	18.34	18.14	15.48	14.16	39.10
1981	35.84	36.68	28.28	2.43	1.93	1.59	22.80	20.27	20.72	18.37	18.17	15.74	14.42	39.50
1982	35.89	36.62	28.91	2.55	2.06	1.74	22.96	20.43	20.88	18.40	18.20	15.99	14.67	39.90
1983	35.93	36.56	29.53	2.68	2.19	1.89	23.12	20.59	21.04	18.44	18.24	16.25	14.93	40.29
1984	35.98	36.50	30.16	2.81	2.31	2.04	23.28	20.75	21.20	18.47	18.27	16.51	15.18	40.69
1985	36.02	36.44	30.79	2.94	2.44	2.19	23.44	20.91	21.36	18.50	18.30	16.76	15.44	41.08
1986	36.14	36.45	31.48	3.08	2.58	2.31	23.73	21.20	21.65	18.62	18.42	17.05	15.72	41.28
1987	36.25	36.46	32.17	3.21	2.72	2.43	24.03	21.50	21.95	18.74	18.55	17.34	16.00	41.48
1988	36.37	36.46	32.86	3.35	2.86	2.55	24.32	21.79	22.24	18.86	18.67	17.64	16.29	41.68
1989	36.48	36.47	33.55	3.49	3.00	2.67	24.61	22.08	22.53	18.99	18.79	17.93	16.57	41.88
1990	36.60	36.48	34.24	3.63	3.13	2.79	24.90	22.37	22.82	19.11	18.91	18.22	16.85	42.07
1991	36.60	36.48	34.24	3.63	3.13	2.79	24.90	22.37	22.82	19.11	18.91	18.22	16.85	42.07

TABLE 5
ENERGY PRICES IN 1977 DOLLARS PER FUEL UNIT
FEA REGION V MIDWEST
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT. $/MMBTU	COMM. ELECT. $/MKWH	IND. ELECT. $/MMBTU	RES. N. GAS $/MCFT	COMM. N. GAS $/MCFT	IND. N. GAS $/MCFT	RES. DIST. $/BBL	COMM. DIST. $/BBL	IND. DIST. $/BBL	COMM. RESID. $/BBL	IND. RESID. $/BBL	RES. LPG $/BBL	IND. LPG $/BBL	IND. COAL $/MBTU
1975	36.37	35.58	21.99	1.73	1.46	1.21	16.92	15.95	15.95	15.35	15.28	10.41	9.79	21.78
1976	36.67	35.96	22.88	1.84	1.56	1.30	17.44	16.47	16.46	16.20	16.11	11.01	10.38	24.25
1977	36.98	36.33	23.77	1.95	1.66	1.38	17.97	16.98	16.97	17.04	16.94	11.61	10.97	26.73
1978	37.28	36.71	24.66	2.05	1.75	1.46	18.49	17.50	17.48	17.89	17.78	12.21	11.57	29.20
1979	37.59	37.09	25.55	2.16	1.85	1.54	19.02	18.01	17.99	18.73	18.61	12.81	12.16	31.68
1980	37.89	37.47	26.44	2.27	1.95	1.63	19.55	18.52	18.50	19.58	19.44	13.41	12.75	34.15
1981	38.20	37.84	27.36	2.38	2.06	1.74	19.82	18.80	18.78	19.61	19.47	13.67	13.02	34.45
1982	38.50	38.21	28.27	2.49	2.17	1.85	20.10	19.07	19.05	19.65	19.50	13.94	13.29	34.75
1983	38.81	38.59	29.18	2.60	2.28	1.96	20.37	19.35	19.33	19.68	19.54	14.20	13.57	35.05
1984	39.11	38.96	30.10	2.71	2.40	2.08	20.65	19.62	19.60	19.71	19.57	14.47	13.84	35.34
1985	39.41	39.34	31.01	2.83	2.51	2.19	20.92	19.90	19.88	19.74	19.60	14.73	14.12	35.64
1986	39.70	39.69	31.90	3.03	2.71	2.39	21.23	20.21	20.19	19.87	19.72	15.03	14.41	35.89
1987	39.98	40.04	32.80	3.23	2.91	2.59	21.54	20.52	20.50	19.99	19.84	15.33	14.70	36.13
1988	40.26	40.40	33.69	3.43	3.12	2.80	21.85	20.83	20.81	20.11	19.96	15.63	14.99	36.38
1989	40.55	40.75	34.58	3.64	3.32	3.00	22.16	21.14	21.12	20.23	20.09	15.93	15.28	36.63
1990	40.83	41.11	35.47	3.84	3.52	3.20	22.47	21.45	21.43	20.35	20.21	16.23	15.57	36.88
1991	40.83	41.11	35.47	3.84	3.52	3.20	22.47	21.45	21.43	20.35	20.21	16.23	15.57	36.88

TABLE 6
ENERGY PRICES IN 1977 DOLLARS PER FUEL UNIT
FEA REGION VI SOUTHWEST
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT. $/MKWH	COMM. ELECT. $/MKWH	IND. ELECT. $/MKWH	RES. N. GAS $/MCFT	COMM. N. GAS $/MCFT	IND. N. GAS $/MCFT	RES. DIST. $/BBL	COMM. DIST. $/BBL	IND. DIST. $/BBL	COMM. RESID. $/BBL	IND. RESID. $/BBL	RES. LPG $/BBL	IND. LPG $/BBL	IND. COAL $/MEST
1975	29.69	25.93	15.91	1.53	1.03	0.80	17.43	15.95	15.89	13.28	13.69	10.72	9.92	41.83
1976	33.13	29.56	20.00	1.60	1.10	1.03	18.12	16.66	16.58	14.33	14.65	11.33	10.52	39.75
1977	36.58	33.19	24.08	1.66	1.16	1.25	18.80	17.36	17.28	15.38	15.60	11.94	11.12	37.67
1978	40.02	36.81	28.16	1.73	1.22	1.47	19.49	18.06	17.97	16.43	16.56	12.54	11.72	35.59
1979	43.47	40.44	32.24	1.79	1.29	1.69	20.18	18.76	18.67	17.47	17.51	13.15	12.32	33.51
1980	46.91	44.07	36.32	1.86	1.35	1.91	20.87	19.46	19.36	18.52	18.47	13.76	12.92	31.43
1981	46.33	43.66	36.39	1.91	1.53	1.92	21.03	19.62	19.52	18.56	18.50	14.02	13.19	31.88
1982	45.74	43.26	36.45	1.96	1.70	1.92	21.19	19.78	19.68	18.59	18.53	14.27	13.45	32.32
1983	45.15	42.86	36.52	2.02	1.87	1.93	21.35	19.94	19.84	18.62	18.57	14.53	13.72	32.77
1984	44.57	42.46	36.59	2.07	2.05	1.93	21.51	20.10	20.00	18.66	18.60	14.79	13.98	33.21
1985	43.98	42.05	36.65	2.12	2.22	1.94	21.67	20.26	20.16	18.69	18.63	15.04	14.25	33.66
1986	44.47	42.72	37.79	2.27	2.46	2.18	21.96	20.55	20.46	18.81	18.75	15.34	14.54	34.11
1987	44.95	43.39	38.93	2.41	2.70	2.42	22.26	20.85	20.75	18.93	18.88	15.64	14.83	34.55
1988	45.44	44.06	40.07	2.56	2.94	2.66	22.55	21.14	21.04	19.05	19.00	15.94	15.12	35.00
1989	45.93	44.73	41.21	2.70	3.18	2.90	22.84	21.43	21.33	19.17	19.12	16.24	15.41	35.44
1990	46.42	45.40	42.35	2.85	3.42	3.13	23.13	21.72	21.63	19.29	19.24	16.54	15.70	35.89
1991	46.42	45.40	42.35	2.85	3.42	3.13	23.13	21.72	21.63	19.29	19.24	16.54	15.70	35.89

TABLE 7
ENERGY PRICES IN 1977 DOLLARS PER FUEL UNIT
FEA REGION VII CENTRAL
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT. $/MKWH	COMM. ELECT. $/MKWH	IND. ELECT. $/MKWH	RES. N. GAS $/MCFT	COMM. N. GAS $/MCFT	IND. N. GAS $/MCFT	RES. DIST. $/BBL	COMM. DIST. $/BBL	IND. DIST. $/BBL	COMM. RESID. $/BBL	IND. RESID. $/BBL	RES. LPG $/BBL	IND. LPG $/BBL	IND. COAL $/MEST
1975	33.40	31.00	21.28	1.46	1.10	0.76	17.11	16.02	15.95	16.60	16.39	10.50	9.79	28.46
1976	34.45	31.94	22.51	1.52	1.15	0.96	17.48	16.42	16.36	17.21	17.00	10.99	10.31	29.30
1977	35.49	32.88	23.74	1.57	1.20	1.16	17.86	16.82	16.76	17.81	17.62	11.49	10.83	30.15
1978	36.53	33.82	24.97	1.63	1.24	1.37	18.23	17.22	17.17	18.42	18.23	11.98	11.35	30.99
1979	37.58	34.76	26.20	1.68	1.29	1.57	18.61	17.62	17.57	19.03	18.85	12.47	11.87	31.83
1980	38.62	35.69	27.43	1.74	1.34	1.77	18.99	18.02	17.97	19.63	19.46	12.97	12.39	32.67
1981	38.56	36.05	28.24	1.74	1.60	2.04	19.26	18.29	18.25	19.67	19.49	13.23	12.66	32.97
1982	38.50	36.41	29.05	1.75	1.86	2.32	19.54	18.57	18.52	19.70	19.52	13.50	12.92	33.26
1983	38.44	36.76	29.86	1.76	2.12	2.59	19.81	18.84	18.80	19.73	19.56	13.76	13.19	33.56
1984	38.37	37.12	30.67	1.76	2.38	2.86	20.09	19.12	19.07	19.77	19.59	14.03	13.45	33.86
1985	38.31	37.48	31.48	1.77	2.64	3.13	20.36	19.39	19.35	19.80	19.62	14.29	13.72	34.15
1986	38.15	37.73	32.19	2.00	2.86	3.19	20.67	19.70	19.66	19.92	19.74	14.59	14.02	34.35
1987	37.99	37.99	32.90	2.24	3.08	3.25	20.98	20.01	19.97	20.04	19.87	14.89	14.32	34.55
1988	37.83	38.24	33.61	2.47	3.29	3.31	21.29	20.32	20.28	20.16	19.99	15.19	14.62	34.75
1989	37.67	38.50	34.32	2.70	3.51	3.37	21.60	20.63	20.59	20.28	20.11	15.49	14.92	34.95
1990	37.51	38.75	35.03	2.94	3.73	3.43	21.91	20.94	20.90	20.40	20.23	15.79	15.22	35.14
1991	37.51	38.75	35.03	2.94	3.73	3.43	21.91	20.94	20.90	20.40	20.23	15.79	15.22	35.14

TABLE 8
ENERGY PRICES IN 1977 DOLLARS PER FUEL UNIT
FEA REGION VIII NORTH CENTRAL
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT. $/MKWH	COMM. ELECT. $/MKWH	IND. ELECT. $/MKWH	RES. N. GAS $/MCFT	COMM. N. GAS $/MCFT	IND. N. GAS $/MCFT	RES. DIST. $/BBL	COMM. DIST. $/BBL	IND. DIST. $/BBL	COMM. RESID. $/BBL	IND. RESID. $/BBL	RES. LPG $/BBL	IND. LPG $/BBL	IND. COAL $/MEST
1975	30.79	25.86	13.96	1.33	1.11	0.68	17.94	17.17	17.17	17.63	17.29	11.51	10.72	20.54
1976	30.97	26.28	15.09	1.41	1.19	0.94	18.38	17.51	17.55	18.05	17.71	11.88	11.08	21.83
1977	31.17	26.70	16.21	1.49	1.28	1.20	18.82	17.85	17.93	18.47	18.13	12.25	11.44	23.12
1978	31.36	27.11	17.33	1.58	1.36	1.45	19.25	18.19	18.31	18.88	18.55	12.62	11.80	24.40
1979	31.56	27.53	18.46	1.66	1.45	1.71	19.69	18.53	18.69	19.30	18.97	12.99	12.17	25.69
1980	31.76	27.95	19.58	1.75	1.53	1.97	20.13	18.86	19.07	19.71	19.39	13.37	12.53	26.98
1981	31.57	27.98	20.33	1.77	1.72	1.98	20.40	19.14	19.35	19.83	19.51	13.60	12.77	27.37
1982	31.39	28.01	21.08	1.79	1.90	1.98	20.68	19.41	19.62	19.94	19.62	13.84	13.00	27.77
1983	31.19	28.04	21.83	1.81	2.09	1.99	20.95	19.69	19.90	20.06	19.74	14.08	13.24	28.17
1984	31.00	28.07	22.58	1.84	2.28	2.00	21.23	19.96	20.17	20.17	19.85	14.32	13.48	28.56
1985	30.81	28.09	23.33	1.86	2.46	2.00	21.50	20.24	20.45	20.28	19.96	14.56	13.72	28.96
1986	31.21	28.71	24.67	2.05	2.71	2.25	21.80	20.53	20.74	20.49	20.17	14.85	14.02	29.30
1987	31.61	29.33	26.01	2.25	2.96	2.49	22.09	20.83	21.03	20.69	20.37	15.14	14.32	29.65
1988	32.01	29.95	27.35	2.44	3.20	2.74	22.38	21.12	21.33	20.89	20.57	15.43	14.62	30.00
1989	32.41	30.57	28.69	2.65	3.45	2.99	22.68	21.41	21.62	21.09	20.77	15.72	14.92	30.34
1990	32.81	31.18	30.03	2.83	3.70	3.23	22.97	21.70	21.91	21.30	20.98	16.01	15.22	30.69
1991	32.81	31.18	30.03	2.83	3.70	3.23	22.97	21.70	21.91	21.30	20.98	16.01	15.22	30.69

TABLE 9
ENERGY PRICES IN 1977 DOLLARS PER FUEL UNIT
FEA REGION IX WESTERN
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT. $/MKWH	COMM. ELECT. $/MKWH	IND. ELECT. $/MKWH	RES. N. GAS $/MCFT	COMM. N. GAS $/MCFT	IND. N. GAS $/MCFT	RES. DIST. $/BBL	COMM. DIST. $/BBL	IND. DIST. $/BBL	COMM. RESID. $/BBL	IND. RESID. $/BBL	RES. LPG $/BBL	IND. LPG $/BBL	IND. COAL $/MEST
1975	36.97	31.11	23.76	1.73	1.42	1.12	19.16	17.56	17.56	18.26	18.19	12.31	11.29	41.33
1976	39.13	33.56	26.37	1.92	1.56	1.46	19.43	17.84	17.84	18.33	18.27	12.60	11.60	39.90
1977	41.30	36.01	28.98	2.10	1.71	1.79	19.69	18.12	18.12	18.40	18.35	12.89	11.91	38.46
1978	43.46	38.46	31.59	2.28	1.85	2.13	19.96	18.40	18.40	18.47	18.43	13.18	12.22	37.03
1979	45.63	40.90	34.21	2.47	2.00	2.47	20.23	18.68	18.68	18.54	18.51	13.47	12.53	35.59
1980	47.79	43.35	36.82	2.65	2.14	2.80	20.49	18.96	18.96	18.61	18.59	13.76	12.84	34.15
1981	47.28	43.12	36.78	2.85	2.35	2.75	20.71	19.18	19.18	18.64	18.61	13.97	13.05	34.65
1982	46.77	42.89	36.74	3.06	2.55	2.70	20.93	19.40	19.40	18.66	18.64	14.19	13.26	35.14
1983	46.26	42.66	36.70	3.26	2.75	2.65	21.15	19.62	19.62	18.68	18.66	14.40	13.47	35.64
1984	45.74	42.43	36.67	3.46	2.95	2.60	21.37	19.84	19.84	18.71	18.69	14.61	13.68	36.13
1985	45.23	42.20	36.63	3.66	3.16	2.55	21.59	20.06	20.06	18.73	18.71	14.82	13.89	36.63
1986	45.27	42.52	37.14	3.70	3.19	2.70	21.86	20.33	20.33	18.85	18.83	15.15	14.22	37.12
1987	45.32	42.85	37.66	3.74	3.23	2.86	22.13	20.60	20.60	18.97	18.95	15.47	14.55	37.62
1988	45.36	43.17	38.17	3.78	3.27	3.01	22.39	20.86	20.86	19.10	19.07	15.80	14.87	38.11
1989	45.40	43.50	38.69	3.81	3.31	3.16	22.66	21.13	21.13	19.22	19.19	16.13	15.20	38.61
1990	45.44	43.82	39.20	3.85	3.34	3.31	22.92	21.39	21.39	19.34	19.32	16.45	15.53	39.10
1991	45.44	43.82	39.20	3.85	3.34	3.31	22.92	21.39	21.39	19.34	19.32	16.45	15.53	39.10

TABLE 10
ENERGY PRICES IN 1977 DOLLARS PER FUEL UNIT
FEA REGION X NORTHWESTERN
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT. $/MKWH	COMM. ELECT. $/MKWH	IND. ELECT. $/MKWH	RES. N. GAS $/MCFT	COMM. N. GAS $/MCFT	IND. N. GAS $/MCFT	RES. DIST. $/BBL	COMM. DIST. $/BBL	IND. DIST. $/BBL	COMM. RESID. $/BBL	IND. RESID. $/BBL	RES. LPG $/BBL	IND. LPG $/BBL	IND. COAL $/MEST
1975	15.91	16.66	6.16	2.37	1.78	1.17	18.77	17.17	17.11	17.77	17.91	11.91	10.98	24.01
1976	17.23	17.90	7.81	2.59	2.00	1.38	19.12	17.53	17.48	17.86	18.11	12.28	11.35	24.55
1977	18.55	19.13	9.47	2.80	2.22	1.59	19.46	17.89	17.85	17.94	18.31	12.65	11.72	25.10
1978	19.87	20.37	11.13	3.02	2.44	1.80	19.81	18.25	18.22	18.03	18.52	13.02	12.09	25.64
1979	21.19	21.60	12.79	3.24	2.66	2.01	20.15	18.61	18.59	18.11	18.72	13.39	12.47	26.19
1980	22.51	22.84	14.45	3.45	2.88	2.22	20.49	18.96	18.96	18.19	18.92	13.76	12.84	26.73
1981	22.52	22.77	14.81	3.46	2.88	2.22	20.71	19.18	19.18	18.22	18.94	13.97	13.05	28.56
1982	22.53	22.70	15.18	3.46	2.89	2.23	20.93	19.40	19.40	18.24	18.97	14.19	13.26	30.39
1983	22.54	22.62	15.54	3.46	2.89	2.23	21.15	19.62	19.62	18.27	18.99	14.40	13.47	32.22
1984	22.55	22.55	15.90	3.46	2.89	2.23	21.37	19.84	19.84	18.29	19.02	14.61	13.68	34.06
1985	22.56	22.48	16.26	3.46	2.89	2.23	21.59	20.06	20.06	18.31	19.04	14.82	13.89	35.89
1986	22.91	22.75	16.95	3.50	3.23	2.57	21.86	20.33	20.33	18.44	19.16	15.15	14.22	36.68
1987	23.25	23.01	17.65	3.54	3.57	2.91	22.13	20.60	20.60	18.56	19.28	15.47	14.55	37.47
1988	23.60	23.28	18.34	3.58	3.90	3.24	22.39	20.86	20.86	18.68	19.40	15.80	14.87	38.26
1989	23.94	23.54	19.04	3.62	4.24	3.58	22.66	21.13	21.13	18.80	19.52	16.13	15.20	39.06
1990	24.29	23.80	19.73	3.66	4.58	3.92	22.92	21.39	21.39	18.92	19.65	16.45	15.53	39.85
1991	24.29	23.80	19.73	3.66	4.58	3.92	22.92	21.39	21.39	18.92	19.65	16.45	15.53	39.85

TABLE 11
ENERGY PRICES IN 1977 DOLLARS PER MILLION BTU
FEA REGION I NEW ENGLAND
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT.	COMM. ELECT.	IND. ELECT.	RES. N. GAS	COMM. N. GAS	IND. N. GAS	RES. DIST.	COMM. DIST.	IND. DIST.	COMM. RESID.	IND. RESID.	RES. LPG	IND. LPG	IND. COAL
1975	14.53	14.15	10.35	3.37	2.79	2.36	3.44	3.05	3.05	2.33	2.34	3.89	3.32	1.26
1976	14.54	14.18	10.55	3.37	2.78	2.69	3.47	3.11	3.11	2.44	2.46	3.82	3.32	1.37
1977	14.54	14.22	10.75	3.37	2.77	3.01	3.50	3.17	3.17	2.56	2.58	3.74	3.31	1.47
1978	14.55	14.25	10.95	3.37	2.76	3.34	3.53	3.24	3.24	2.67	2.70	3.67	3.30	1.57
1979	14.56	14.29	11.15	3.37	2.75	3.66	3.56	3.30	3.30	2.78	2.82	3.59	3.30	1.67
1980	14.56	14.33	11.35	3.37	2.74	3.98	3.59	3.36	3.36	2.89	2.94	3.52	3.29	1.77
1981	14.52	14.32	11.51	3.53	2.90	3.78	3.61	3.38	3.38	2.90	2.95	3.57	3.34	1.79
1982	14.48	14.30	11.66	3.69	3.06	3.59	3.63	3.41	3.40	2.90	2.95	3.62	3.39	1.80
1983	14.44	14.29	11.84	3.84	3.21	3.39	3.66	3.43	3.43	2.90	2.96	3.67	3.45	1.82
1984	14.40	14.28	12.00	4.00	3.37	3.19	3.68	3.45	3.45	2.91	2.96	3.72	3.50	1.83
1985	14.36	14.27	12.17	4.15	3.52	2.99	3.70	3.47	3.47	2.91	2.96	3.77	3.55	1.85
1986	14.46	14.40	12.48	4.33	3.70	3.17	3.75	3.52	3.52	2.93	2.98	3.84	3.62	1.86
1987	14.56	14.53	12.78	4.50	3.87	3.34	3.79	3.56	3.56	2.95	3.00	3.90	3.68	1.87
1988	14.67	14.67	13.09	4.68	4.05	3.52	3.84	3.61	3.61	2.97	3.02	3.97	3.75	1.88
1989	14.77	14.80	13.40	4.85	4.22	3.69	3.89	3.66	3.65	2.99	3.04	4.04	3.82	1.89
1990	14.88	14.93	13.71	5.03	4.40	3.87	3.93	3.70	3.70	3.01	3.06	4.10	3.88	1.90
1991	14.88	14.93	13.71	5.03	4.40	3.87	3.93	3.70	3.70	3.01	3.06	4.10	3.88	1.90

TABLE 12
ENERGY PRICES IN 1977 DOLLARS PER MILLION BTU
FEA REGION II : NEW YORK/NEW JERSEY
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT.	COMM. ELECT.	IND. ELECT.	RES. N. GAS	COMM. N. GAS	IND. N. GAS	RES. DIST.	COMM. DIST.	IND. DIST.	COMM. RESID.	IND. RESID.	RES. LPG	IND. LPG	IND. COAL
1975	16.32	16.41	8.89	2.75	2.23	1.66	3.13	2.85	2.84	2.28	2.28	3.22	2.90	1.06
1976	16.20	16.45	8.90	2.82	2.30	1.71	3.24	2.96	2.95	2.42	2.44	3.29	2.99	1.18
1977	16.09	16.48	8.92	2.90	2.36	1.76	3.34	3.07	3.06	2.56	2.60	3.36	3.07	1.30
1978	15.96	16.52	8.93	2.97	2.42	1.80	3.44	3.18	3.17	2.70	2.76	3.43	3.15	1.42
1979	15.84	16.56	8.95	3.04	2.49	1.85	3.54	3.29	3.28	2.84	2.92	3.50	3.23	1.54
1980	15.72	16.59	8.97	3.12	2.55	1.90	3.64	3.40	3.39	2.98	3.08	3.56	3.31	1.66
1981	15.56	16.60	8.96	3.23	2.66	2.01	3.67	3.43	3.41	2.99	3.08	3.62	3.37	1.68
1982	15.41	16.60	8.95	3.34	2.77	2.12	3.69	3.46	3.44	2.99	3.09	3.68	3.43	1.69
1983	15.25	16.60	8.94	3.45	2.88	2.23	3.72	3.48	3.46	2.99	3.09	3.74	3.49	1.71
1984	15.09	16.60	8.93	3.55	2.99	2.34	3.75	3.51	3.49	3.00	3.09	3.79	3.55	1.72
1985	14.94	16.61	8.92	3.66	3.10	2.45	3.77	3.53	3.52	3.00	3.10	3.85	3.61	1.74
1986	14.94	16.77	9.08	3.80	3.24	2.59	3.82	3.58	3.56	3.02	3.12	3.92	3.67	1.75
1987	14.95	16.93	9.23	3.95	3.38	2.73	3.87	3.63	3.61	3.04	3.14	3.98	3.74	1.76
1988	14.96	17.10	9.38	4.09	3.52	2.87	3.91	3.67	3.66	3.06	3.15	4.05	3.81	1.77
1989	14.96	17.26	9.54	4.23	3.66	3.01	3.96	3.72	3.70	3.08	3.17	4.11	3.87	1.78
1990	14.97	17.43	9.69	4.37	3.80	3.15	4.01	3.77	3.75	3.10	3.19	4.18	3.94	1.79
1991	14.97	17.43	9.69	4.37	3.80	3.15	4.01	3.77	3.75	3.10	3.19	4.18	3.94	1.79

TABLE 13
ENERGY PRICES IN 1977 DOLLARS PER MILLION BTU
FEA REGION III MID-ATLANTIC
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT.	COMM. ELECT.	IND. ELECT.	RES. N. GAS	COMM. N. GAS	IND. N. GAS	RES. DIST.	COMM. DIST.	IND. DIST.	COMM. RESID.	IND. RESID.	RES. LPG	IND. LPG	IND. COAL
1975	12.24	11.38	8.02	2.12	1.81	1.19	3.06	2.84	2.82	2.27	2.23	2.90	2.74	0.81
1976	12.19	11.37	8.11	2.23	1.90	1.32	3.21	2.96	2.96	2.47	2.43	3.09	2.89	0.96
1977	12.14	11.35	8.21	2.35	1.99	1.45	3.36	3.08	3.11	2.67	2.62	3.28	3.04	1.11
1978	12.09	11.33	8.30	2.46	2.07	1.58	3.51	3.20	3.25	2.87	2.81	3.47	3.19	1.26
1979	12.05	11.31	8.40	2.57	2.16	1.72	3.67	3.33	3.39	3.07	3.00	3.66	3.35	1.40
1980	12.00	11.29	8.50	2.68	2.24	1.85	3.82	3.45	3.54	3.27	3.19	3.85	3.50	1.55
1981	12.09	11.41	8.74	2.79	2.36	1.96	3.84	3.47	3.56	3.27	3.20	3.91	3.56	1.57
1982	12.18	11.54	8.99	2.91	2.47	2.07	3.87	3.50	3.59	3.28	3.20	3.97	3.62	1.59
1983	12.27	11.66	9.24	3.02	2.58	2.19	3.90	3.53	3.62	3.28	3.20	4.03	3.68	1.60
1984	12.36	11.79	9.48	3.13	2.70	2.30	3.92	3.55	3.64	3.28	3.21	4.09	3.74	1.62
1985	12.45	11.91	9.73	3.25	2.81	2.41	3.95	3.58	3.67	3.29	3.21	4.15	3.79	1.64
1986	12.53	12.02	9.96	3.36	2.92	2.52	4.00	3.62	3.72	3.31	3.23	4.21	3.86	1.65
1987	12.61	12.13	10.20	3.47	3.03	2.64	4.04	3.67	3.76	3.33	3.25	4.28	3.93	1.66
1988	12.69	12.24	10.43	3.58	3.14	2.75	4.09	3.72	3.81	3.35	3.27	4.34	3.99	1.67
1989	12.77	12.35	10.66	3.69	3.25	2.86	4.13	3.76	3.85	3.36	3.29	4.41	4.06	1.67
1990	12.85	12.46	10.90	3.80	3.36	2.97	4.18	3.81	3.90	3.38	3.31	4.48	4.12	1.68
1991	12.85	12.46	10.90	3.80	3.36	2.97	4.18	3.81	3.90	3.38	3.31	4.48	4.12	1.68

TABLE 14
ENERGY PRICES IN 1977 DOLLARS PER MILLION BTU
FEA REGION IV SOUTH ATLANTIC
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT.	COMM. ELECT.	IND. ELECT.	RES. N. GAS	COMM. N. GAS	IND. N. GAS	RES. DIST.	COMM. DIST.	IND. DIST.	COMM. RESID.	IND. RESID.	RES. LPG	IND. LPG	IND. COAL
1975	9.01	9.44	5.81	1.64	1.30	0.91	3.08	2.84	2.82	2.02	2.05	2.74	2.53	0.97
1976	9.31	9.70	6.27	1.76	1.39	1.01	3.24	2.96	2.96	2.20	2.21	2.96	2.73	1.12
1977	9.60	9.97	6.73	1.88	1.48	1.11	3.40	3.08	3.10	2.38	2.38	3.19	2.93	1.28
1978	9.90	10.24	7.19	1.99	1.57	1.20	3.56	3.21	3.24	2.56	2.55	3.41	3.13	1.43
1979	10.19	10.50	7.65	2.11	1.66	1.30	3.73	3.33	3.39	2.74	2.72	3.64	3.33	1.58
1980	10.49	10.77	8.10	2.23	1.75	1.40	3.89	3.45	3.55	2.92	2.89	3.86	3.53	1.74
1981	10.50	10.75	8.29	2.36	1.88	1.54	3.91	3.48	3.56	2.92	2.89	3.92	3.59	1.76
1982	10.52	10.73	8.47	2.48	2.00	1.69	3.94	3.51	3.58	2.93	2.90	3.99	3.66	1.77
1983	10.53	10.72	8.66	2.60	2.12	1.83	3.97	3.53	3.61	2.93	2.90	4.05	3.72	1.79
1984	10.54	10.70	8.84	2.73	2.25	1.98	4.00	3.56	3.64	2.94	2.91	4.12	3.79	1.81
1985	10.56	10.68	9.02	2.85	2.37	2.13	4.02	3.59	3.67	2.94	2.91	4.18	3.85	1.83
1986	10.59	10.68	9.23	2.99	2.51	2.24	4.07	3.64	3.72	2.96	2.93	4.25	3.92	1.83
1987	10.63	10.68	9.43	3.12	2.64	2.36	4.12	3.69	3.77	2.98	2.95	4.33	3.99	1.84
1988	10.66	10.69	9.63	3.26	2.77	2.48	4.17	3.74	3.82	3.00	2.97	4.40	4.06	1.85
1989	10.69	10.69	9.83	3.39	2.91	2.60	4.23	3.79	3.87	3.02	2.99	4.47	4.13	1.86
1990	10.73	10.69	10.04	3.52	3.04	2.71	4.28	3.84	3.92	3.04	3.01	4.54	4.20	1.87
1991	10.73	10.69	10.04	3.52	3.04	2.71	4.28	3.84	3.92	3.04	3.01	4.54	4.20	1.87

TABLE 15
ENERGY PRICES IN 1977 DOLLARS PER MILLION BTU
FEA REGION V MIDWEST
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT.	COMM. ELECT.	IND. ELECT.	RES. N. GAS	COMM. N. GAS	IND. N. GAS	RES. DIST.	COMM. DIST.	IND. DIST.	COMM. RESID.	IND. RESID.	RES. LPG	IND. LPG	IND. COAL
1975	10.66	10.43	6.45	1.68	1.42	1.18	2.90	2.74	2.74	2.44	2.43	2.60	2.44	0.97
1976	10.75	10.54	6.71	1.79	1.51	1.26	2.99	2.83	2.83	2.58	2.56	2.75	2.59	1.08
1977	10.84	10.65	6.97	1.89	1.61	1.34	3.08	2.92	2.91	2.71	2.70	2.90	2.74	1.19
1978	10.93	10.76	7.23	1.99	1.70	1.42	3.18	3.00	3.00	2.85	2.83	3.04	2.88	1.30
1979	11.02	10.87	7.49	2.10	1.80	1.50	3.27	3.09	3.09	2.98	2.96	3.19	3.03	1.41
1980	11.11	10.98	7.75	2.20	1.89	1.58	3.36	3.18	3.18	3.11	3.09	3.34	3.18	1.52
1981	11.20	11.09	8.02	2.31	2.00	1.69	3.40	3.23	3.22	3.12	3.10	3.41	3.25	1.53
1982	11.28	11.20	8.29	2.42	2.11	1.80	3.45	3.27	3.27	3.12	3.10	3.48	3.32	1.54
1983	11.37	11.31	8.55	2.53	2.22	1.91	3.50	3.32	3.32	3.13	3.11	3.54	3.38	1.56
1984	11.46	11.42	8.82	2.64	2.33	2.02	3.54	3.37	3.37	3.14	3.11	3.61	3.45	1.57
1985	11.55	11.53	9.09	2.74	2.43	2.13	3.59	3.42	3.41	3.14	3.12	3.67	3.52	1.58
1986	11.63	11.63	9.35	2.94	2.63	2.32	3.65	3.47	3.47	3.16	3.14	3.75	3.59	1.59
1987	11.72	11.74	9.61	3.14	2.83	2.52	3.70	3.52	3.52	3.18	3.16	3.82	3.67	1.61
1988	11.80	11.84	9.87	3.33	3.02	2.71	3.75	3.58	3.57	3.20	3.18	3.90	3.74	1.62
1989	11.88	11.94	10.14	3.53	3.22	2.91	3.80	3.63	3.63	3.22	3.19	3.97	3.81	1.63
1990	11.97	12.05	10.40	3.73	3.42	3.11	3.86	3.68	3.68	3.24	3.21	4.05	3.88	1.64
1991	11.97	12.05	10.40	3.73	3.42	3.11	3.86	3.68	3.68	3.24	3.21	4.05	3.88	1.64

TABLE 16
ENERGY PRICES IN 1977 DOLLARS PER MILLION BTU
FEA REGION VI SOUTHWEST
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT.	COMM. ELECT.	IND. ELECT.	RES. N. GAS	COMM. N. GAS	IND. N. GAS	RES. DIST.	COMM. DIST.	IND. DIST.	COMM. RESID.	IND. RESID.	RES. LPG	IND. LPG	IND. COAL
1975	8.70	7.60	4.66	1.48	1.00	0.78	2.99	2.74	2.73	2.11	2.18	2.67	2.47	1.86
1976	9.71	8.66	5.86	1.55	1.06	1.00	3.11	2.86	2.85	2.28	2.33	2.82	2.62	1.77
1977	10.72	9.73	7.06	1.61	1.13	1.21	3.23	2.98	2.97	2.45	2.48	2.98	2.77	1.67
1978	11.73	10.79	8.25	1.68	1.19	1.43	3.35	3.10	3.09	2.61	2.63	3.13	2.92	1.58
1979	12.74	11.85	9.45	1.74	1.25	1.64	3.46	3.22	3.20	2.78	2.79	3.28	3.07	1.49
1980	13.75	12.91	10.65	1.80	1.31	1.86	3.58	3.34	3.32	2.95	2.94	3.43	3.22	1.40
1981	13.58	12.80	10.66	1.86	1.48	1.86	3.61	3.37	3.35	2.95	2.94	3.50	3.29	1.42
1982	13.41	12.68	10.68	1.91	1.65	1.87	3.64	3.40	3.38	2.96	2.95	3.56	3.35	1.44
1983	13.23	12.56	10.70	1.96	1.82	1.87	3.67	3.42	3.41	2.96	2.95	3.62	3.42	1.46
1984	13.06	12.44	10.72	2.01	1.99	1.88	3.69	3.45	3.43	2.97	2.96	3.69	3.49	1.48
1985	12.89	12.33	10.74	2.06	2.16	1.88	3.72	3.48	3.46	2.97	2.96	3.75	3.55	1.50
1986	13.03	12.52	11.08	2.20	2.39	2.11	3.77	3.53	3.51	2.99	2.98	3.83	3.63	1.52
1987	13.18	12.72	11.41	2.34	2.62	2.35	3.82	3.58	3.56	3.01	3.00	3.90	3.70	1.54
1988	13.32	12.91	11.74	2.48	2.86	2.58	3.87	3.63	3.61	3.03	3.02	3.98	3.77	1.56
1989	13.46	13.11	12.08	2.63	3.09	2.81	3.92	3.68	3.66	3.05	3.04	4.05	3.84	1.58
1990	13.60	13.31	12.41	2.77	3.32	3.04	3.97	3.73	3.71	3.07	3.06	4.12	3.92	1.59
1991	13.60	13.31	12.41	2.77	3.32	3.04	3.97	3.73	3.71	3.07	3.06	4.12	3.92	1.59

TABLE 17
ENERGY PRICES IN 1977 DOLLARS PER MILLION BTU
FEA REGION VII CENTRAL
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT.	COMM. ELECT.	IND. ELECT.	RES. N. GAS	COMM. N. GAS	IND. N. GAS	RES. DIST.	COMM. DIST.	IND. DIST.	COMM. RESID.	IND. RESID.	RES. LPG	IND. LPG	IND. COAL
1975	9.79	9.09	6.24	1.42	1.07	0.74	2.94	2.75	2.74	2.64	2.61	2.62	2.44	1.26
1976	10.10	9.36	6.60	1.47	1.11	0.93	3.00	2.82	2.81	2.74	2.70	2.74	2.57	1.30
1977	10.40	9.64	6.96	1.53	1.16	1.13	3.07	2.89	2.88	2.83	2.80	2.86	2.70	1.34
1978	10.71	9.91	7.32	1.58	1.21	1.33	3.13	2.96	2.95	2.93	2.90	2.99	2.83	1.38
1979	11.01	10.19	7.68	1.63	1.26	1.52	3.19	3.02	3.02	3.03	3.00	3.11	2.96	1.41
1980	11.32	10.46	8.04	1.69	1.30	1.72	3.26	3.09	3.09	3.12	3.10	3.23	3.09	1.45
1981	11.30	10.57	8.28	1.69	1.55	1.98	3.31	3.14	3.13	3.13	3.10	3.30	3.16	1.47
1982	11.28	10.67	8.51	1.70	1.81	2.25	3.35	3.19	3.18	3.13	3.11	3.37	3.22	1.48
1983	11.26	10.77	8.75	1.71	2.06	2.51	3.40	3.23	3.23	3.14	3.11	3.43	3.29	1.49
1984	11.25	10.88	8.99	1.71	2.31	2.78	3.45	3.28	3.27	3.14	3.12	3.50	3.35	1.50
1985	11.23	10.98	9.23	1.72	2.56	3.04	3.50	3.33	3.32	3.15	3.12	3.56	3.42	1.52
1986	11.18	11.06	9.44	1.95	2.77	3.10	3.55	3.38	3.37	3.17	3.14	3.64	3.50	1.53
1987	11.13	11.13	9.64	2.17	2.99	3.16	3.60	3.44	3.43	3.19	3.16	3.71	3.57	1.54
1988	11.09	11.21	9.85	2.40	3.20	3.22	3.66	3.49	3.48	3.21	3.18	3.79	3.65	1.54
1989	11.04	11.28	10.06	2.63	3.41	3.27	3.71	3.54	3.53	3.23	3.20	3.86	3.72	1.55
1990	10.99	11.36	10.27	2.85	3.62	3.33	3.76	3.60	3.59	3.25	3.22	3.94	3.79	1.56
1991	10.99	11.36	10.27	2.85	3.62	3.33	3.76	3.60	3.59	3.25	3.22	3.94	3.79	1.56

TABLE 18
ENERGY PRICES IN 1977 DOLLARS PER MILLION BTU
FEA REGION VIII: NORTH CENTRAL
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT.	COMM. ELECT.	IND. ELECT.	RES. N. GAS	COMM. N. GAS	IND. N. GAS	RES. DIST.	COMM. DIST.	IND. DIST.	COMM. RESID.	IND. RESID.	RES. LPG	IND. LPG	IND. COAL
1975	9.02	7.58	4.09	1.29	1.08	0.66	3.08	2.95	2.95	2.80	2.75	2.87	2.67	0.91
1976	9.08	7.70	4.42	1.37	1.16	0.91	3.16	3.01	3.01	2.87	2.82	2.96	2.76	0.97
1977	9.13	7.82	4.75	1.45	1.24	1.16	3.23	3.06	3.08	2.94	2.88	3.06	2.85	1.03
1978	9.19	7.95	5.08	1.53	1.32	1.41	3.31	3.12	3.14	3.00	2.95	3.15	2.94	1.08
1979	9.25	8.07	5.41	1.62	1.40	1.66	3.38	3.18	3.21	3.07	3.02	3.24	3.03	1.14
1980	9.31	8.19	5.74	1.70	1.48	1.91	3.46	3.24	3.27	3.14	3.08	3.33	3.12	1.20
1981	9.25	8.20	5.96	1.72	1.67	1.92	3.50	3.29	3.32	3.15	3.10	3.39	3.18	1.22
1982	9.20	8.21	6.18	1.74	1.85	1.92	3.55	3.33	3.37	3.17	3.12	3.45	3.24	1.23
1983	9.14	8.22	6.40	1.76	2.03	1.93	3.60	3.38	3.42	3.19	3.14	3.51	3.30	1.25
1984	9.09	8.23	6.62	1.78	2.21	1.94	3.64	3.43	3.46	3.21	3.16	3.57	3.36	1.27
1985	9.03	8.23	6.84	1.80	2.39	1.94	3.69	3.47	3.51	3.23	3.18	3.63	3.42	1.29
1986	9.15	8.42	7.23	1.99	2.63	2.18	3.74	3.52	3.56	3.26	3.21	3.70	3.50	1.30
1987	9.26	8.60	7.62	2.18	2.87	2.42	3.79	3.58	3.61	3.29	3.24	3.78	3.57	1.32
1988	9.38	8.78	8.02	2.37	3.11	2.66	3.84	3.63	3.66	3.32	3.27	3.85	3.65	1.33
1989	9.50	8.96	8.41	2.56	3.35	2.90	3.89	3.68	3.71	3.36	3.30	3.92	3.72	1.35
1990	9.62	9.14	8.80	2.74	3.59	3.14	3.94	3.73	3.76	3.39	3.34	3.99	3.79	1.36
1991	9.62	9.14	8.80	2.74	3.59	3.14	3.94	3.73	3.76	3.39	3.34	3.99	3.79	1.36

TABLE 19
ENERGY PRICES IN 1977 DOLLARS PER MILLION BTU
FEA REGION IX WESTERN
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT.	COMM. ELECT.	IND. ELECT.	RES. N. GAS	COMM. N. GAS	IND. N. GAS	RES. DIST.	COMM. DIST.	IND. DIST.	COMM. RESID.	IND. RESID.	RES. LPG	IND. LPG	IND. COAL
1975	10.83	9.12	6.96	1.68	1.37	1.09	3.29	3.01	3.01	2.90	2.89	3.07	2.82	1.84
1976	11.47	9.84	7.73	1.86	1.52	1.42	3.33	3.06	3.06	2.92	2.91	3.14	2.89	1.77
1977	12.10	10.55	8.49	2.04	1.66	1.74	3.38	3.11	3.11	2.93	2.92	3.21	2.97	1.71
1978	12.74	11.27	9.26	2.22	1.80	2.07	3.43	3.16	3.16	2.94	2.93	3.29	3.05	1.65
1979	13.37	11.99	10.02	2.40	1.94	2.40	3.47	3.21	3.21	2.95	2.94	3.36	3.12	1.58
1980	14.01	12.71	10.79	2.57	2.08	2.72	3.52	3.26	3.26	2.96	2.96	3.43	3.20	1.52
1981	13.86	12.64	10.78	2.77	2.28	2.67	3.56	3.29	3.29	2.96	2.96	3.48	3.25	1.54
1982	13.71	12.57	10.77	2.97	2.48	2.63	3.59	3.33	3.33	2.97	2.96	3.54	3.31	1.56
1983	13.56	12.50	10.76	3.16	2.67	2.58	3.63	3.37	3.37	2.97	2.97	3.59	3.36	1.58
1984	13.41	12.43	10.75	3.36	2.87	2.53	3.67	3.41	3.41	2.98	2.97	3.64	3.41	1.61
1985	13.26	12.37	10.74	3.56	3.07	2.48	3.71	3.44	3.44	2.98	2.98	3.70	3.46	1.63
1986	13.27	12.46	10.89	3.59	3.10	2.63	3.75	3.49	3.49	3.00	3.00	3.78	3.55	1.65
1987	13.28	12.56	11.04	3.63	3.14	2.77	3.80	3.54	3.54	3.02	3.01	3.86	3.63	1.67
1988	13.29	12.65	11.19	3.67	3.17	2.92	3.84	3.58	3.58	3.04	3.03	3.94	3.71	1.69
1989	13.31	12.75	11.34	3.70	3.21	3.07	3.89	3.63	3.63	3.06	3.05	4.02	3.79	1.72
1990	13.32	12.84	11.49	3.74	3.25	3.21	3.94	3.67	3.67	3.08	3.07	4.10	3.87	1.74
1991	13.32	12.84	11.49	3.74	3.25	3.21	3.94	3.67	3.67	3.08	3.07	4.10	3.87	1.74

TABLE 20
ENERGY PRICES IN 1977 DOLLARS PER MILLION BTU
FEA REGION X NORTHWESTERN
(PRICES ASSUMED CONSTANT FROM 1990 ONWARD)

	RES. ELECT.	COMM. ELECT.	IND. ELECT.	RES. N. GAS	COMM. N. GAS	IND. N. GAS	RES. DIST.	COMM. DIST.	IND. DIST.	COMM. RESID.	IND. RESID.	RES. LPG	IND. LPG	IND. COAL
1975	4.66	4.88	1.80	2.30	1.73	1.13	3.22	2.95	2.94	2.83	2.85	2.97	2.74	1.07
1976	5.05	5.25	2.29	2.51	1.94	1.34	3.28	3.01	3.00	2.84	2.88	3.06	2.83	1.09
1977	5.44	5.61	2.78	2.72	2.16	1.54	3.34	3.07	3.06	2.85	2.91	3.15	2.92	1.12
1978	5.82	5.97	3.26	2.93	2.37	1.75	3.40	3.13	3.13	2.87	2.95	3.25	3.02	1.14
1979	6.21	6.33	3.75	3.14	2.58	1.95	3.46	3.19	3.19	2.88	2.98	3.34	3.11	1.16
1980	6.60	6.69	4.24	3.35	2.80	2.16	3.52	3.26	3.26	2.89	3.01	3.43	3.20	1.19
1981	6.60	6.67	4.34	3.36	2.80	2.16	3.56	3.29	3.29	2.90	3.01	3.48	3.25	1.27
1982	6.60	6.65	4.45	3.36	2.80	2.16	3.59	3.33	3.33	2.90	3.02	3.54	3.31	1.35
1983	6.61	6.63	4.55	3.36	2.80	2.16	3.63	3.37	3.37	2.91	3.02	3.59	3.36	1.43
1984	6.61	6.61	4.66	3.36	2.81	2.17	3.67	3.41	3.41	2.91	3.02	3.64	3.41	1.51
1985	6.61	6.59	4.76	3.36	2.81	2.17	3.71	3.44	3.44	2.91	3.03	3.70	3.46	1.59
1986	6.71	6.67	4.97	3.40	3.14	2.49	3.75	3.49	3.49	2.93	3.05	3.78	3.55	1.63
1987	6.81	6.74	5.17	3.44	3.46	2.82	3.80	3.54	3.54	2.95	3.07	3.86	3.63	1.67
1988	6.92	6.82	5.38	3.48	3.79	3.15	3.84	3.58	3.58	2.97	3.09	3.94	3.71	1.70
1989	7.02	6.90	5.58	3.52	4.12	3.48	3.89	3.63	3.63	2.99	3.11	4.02	3.79	1.74
1990	7.12	6.98	5.78	3.56	4.44	3.80	3.94	3.67	3.67	3.01	3.12	4.10	3.87	1.77
1991	7.12	6.98	5.78	3.56	4.44	3.80	3.94	3.67	3.67	3.01	3.12	4.10	3.87	1.77

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federal register

FRIDAY, APRIL 15, 1977

PART V

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon 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 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.

NEW GENERAL WAGE DETERMINATION DECISIONS

Ohio	OH77–2057, OH77–2058, OH77–2059, OH77–2060, OH77–2061, OH77–2062

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.

Alabama:	
AL77–1025	Mar. 4, 1977.
Georgia:	
GA76–1119	Oct. 5, 1976.
Hawaii:	
HI77–5030	Mar. 4, 1977.
Idaho:	
ID77–5023	Feb. 25, 1977.
Kansas:	
KS77–4025	Feb. 18, 1977.
Louisiana:	
LA77–4052	Mar. 4, 1977.
Michigan:	
MI76–2138	Nov. 5, 1976.
MI77–2019	Feb. 18, 1977.
Minnesota:	
MN76–2001	Jan. 16, 1976.
Missouri:	
MO77–4051	Mar. 4, 1977.
Nevada:	
NV77–5012	Feb. 11, 1977.
New Mexico:	
NM77–4074	Apr. 8, 1977.
New York:	
NY77–3014; NY77–3015	Feb. 11, 1977.
Oklahoma:	
OK77–4063	Mar. 11, 1977.
Pennsylvania:	
PA76–3271	Nov. 5, 1976.
PA77–3026	Feb. 4, 1977.
Rhode Island:	
RI76–2150	Nov. 5, 1976.
RI76–2151	Nov. 12, 1976.
RI76–2152	Nov. 19, 1976.
Tennessee:	
TN77–1038	Apr. 1, 1977.
Texas:	
TX76–4192	Dec. 17, 1976.
TX77–4006; TX77–4007	Jan. 21, 1977.
TX77–4044	Feb. 25, 1977.
TX77–4071	Apr. 1, 1977.
Virginia:	
VA76–3254	Oct. 8, 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.

Alabama:	
AL76–1027 (AL77–1045)	Feb. 20, 1976.
Connecticut:	
CT76–2109 (CT77–3045)	Sept. 10, 1976.
Iowa:	
IA76–4092 (IA77–4069)	May 21, 1976.
Kansas:	
KS77–4049 (KS77–4085)	Feb. 25, 1977.
KS77–4050 (KS77–4084)	Mar. 4, 1977.
Nevada:	
NV77–5029 (NV77–5037)	Do.
Ohio:	
OH76–2041 (OH77–2063)	Apr. 9, 1976.
OH76–2085 (OH77–2056)	July 23, 1976.
OH76–2092 (OH77–2056)	Aug. 13, 1976.
Pennsylvania:	
PA76–3181 (PA77–3034)	June 11, 1976.
PA76–3204 (PA77–3028)	June 18, 1976.
Texas:	
TX77–4043 (TX77–4086)	Feb. 13, 1976.
Wisconsin:	
WI76–2119 (WI77–2049)	Oct. 8, 1976.

Signed at Washington, D.C., this 8th day of April, 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NEW DECISION

STATE: OHIO
DECISION NO.: OH77-2057
COUNTIES: *SEE BELOW
DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

*CHAMPAIGN, LOGAN, & UNION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$4.95				
BRICKLAYERS	6.19				
CARPENTERS	4.72				
CEMENT MASONS	4.79				
DRYWALL FINISHERS	5.00				
ELECTRICIANS	4.95				
LABORERS	3.50				
PAINTERS	5.00				
PLUMBERS	4.37				
ROOFERS	4.50				
SHEET METAL WORKERS	4.50				
SOFT FLOOR LAYERS	6.33				
TRUCK DRIVERS	4.10				
POWER EQUIPMENT OPERATORS:					
Backhoes; Bulldozers; & Front end loaders	5.35				

NEW DECISION

STATE: OHIO
DECISION NO.: OH77-2058
COUNTY: CLINTON
DATE: Date of Publication
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.
BRICKLAYERS	$6.50				
CARPENTERS	6.00				
CEMENT MASONS	5.00				
ELECTRICIANS	5.70				
LABORERS	3.69				
PAINTERS	5.14				
PLUMBERS	5.80				
SHEET METAL WORKERS	5.62				
TRUCK DRIVERS	4.00				
POWER EQUIPMENT OPERATORS:					
Backhoe operators	5.50				
Bulldozer operators	5.85				

NEW DECISION

STATE: OHIO COUNTIES: COSHOCTON & GUERNSEY
DECISION NO.: OH77-2059 DATE: Date of Publication
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.
BRICKLAYERS	$6.00				
CARPENTERS	5.12				
CEMENT MASONS	5.00				
DRYWALL FINISHERS/HANGERS	6.25				
ELECTRICIANS	6.00				
LABORERS	3.71				
PAINTERS	4.39				
PLUMBERS	6.00				
ROOFERS	3.50				
SHEET METAL WORKERS	4.60				
SOFT FLOOR LAYERS	5.00				
TRUCK DRIVERS	5.35				
POWER EQUIPMENT OPERATORS:					
Backhoes	5.16				
Bulldozers/Graders	5.80				
Front end loaders	5.50				

NEW DECISION

STATE: OHIO COUNTIES: *SEE BELOW
DECISION NO.: OH77-2060 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction Consisting of single family homes and garden type apartments up to and including 4 stories.

*CRAWFORD, HANCOCK, SENECA, & WYANDOT

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$4.67				
BRICKLAYERS	6.50				
CARPENTERS	5.91				
CEMENT MASONS	6.14				
ELECTRICIANS	6.60				
LABORERS	4.56				
PAINTERS	5.00				
PLUMBERS	6.00				
ROOFERS	6.37				
POWER EQUIPMENT OPERATORS:					
Backhoes	6.67				
Front end loader	7.37				

NEW DECISION

STATE: OHIO COUNTY: MEDINA
DECISION NO.: OH77-2061 DATE: Date of Publication
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.
BRICKLAYERS	$9.27	.50	.40		.02
CARPENTERS	7.60				
CEMENT MASONS	8.21				
DRYWALL HANGERS	6.00				
ELECTRICIANS	7.25	.47	1%		.2%
LABORERS	5.50				
PAINTERS	6.00				
PLUMBERS	7.92				
ROOFERS	5.50				
SHEET METAL WORKERS	5.36	.45	.45		.02
POWER EQUIPMENT OPERATORS:					
Bulldozers	7.60				

NEW DECISION

STATE: OHIO COUNTY: MUSKINGUM
DECISION NO.: OH77-2062 DATE: Date of Publication
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.
BRICKLAYERS	$5.25				
CARPENTERS	4.83				
CEMENT MASONS	6.50				
DRYWALL FINISHERS	6.25				
DRYWALL HANGERS	7.00				
ELECTRICIANS	6.00				
LABORERS	3.73				
PAINTERS	4.50				
PLUMBERS	6.00				
ROOFERS	4.25				
SHEET METAL WORKERS	4.10				
SOFT FLOOR LAYERS	5.50				
TRUCK DRIVERS	3.73				

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # AL77-1025 - Mod. # 1 (42 FR-12577 - March 4, 1977) Lawrence, Limestone and Morgan Counties Alabama					
Change:					
Power Equipment Operators:					
Group A	9.38	.35	.35		
Group B	8.04	.35	.35		
Group C	7.36	.35	.35		
DECISION #GA76-1119 - Mod. #2 (41 FR-45800 - October 15, 1976) Richmond County, Georgia					
Change:					
Plumbers & Steamfitters	9.93	.50	.45		.03
DECISION #HI77-5030 - Mod. #2 (42 FR 12579 - March 4, 1977) Statewide Hawaii					
Changes:					
Bricklayers	$10.50	$1.10	$1.45		.10
Cement Masons:					
Cement masons	9.33	1.10	1.45	.60	.10
Trowel machine operators	9.48	1.10	1.45	.60	.10
Marble Setters	10.50	1.10	1.45		.10
Plasterers	9.74	1.10	1.75	.60	.16
Terrazzo Workers and Tile Setters	10.50	1.10	1.45		.10
Omit:					
Terrazzo base grinder	7.43	.65	.75		.10
Terrazzo and tile helpers	7.19	.65	.75		.10

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #ID77-5023 - Mod. #4 (42 FR 11195 - February 25, 1977) Statewide Idaho					
Change:					
Electricians:					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties:					
Electricians	$12.13	.57	1% + .40		.02
Cable Splicers	12.53	.57	1% + .40		.02
DECISION #KS77-4025 - Mod. #2 (42 FR 15251 - February 18, 1977) Allen, Anderson, Atchison, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Clay, Cloud, Coffey, Cowley, Crawford, Dickinson, Doniphan, Elk, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Kingman, Labette, Linn, Lyon, Marion, Marshall, McPherson, Montgomery, Morris, Nemaha, Neosho, Osage, Ottawa, Pottawatomie, Reno, Republic, Riley, Saline, Sumner, Wabaunsee, Washington, Wilson and Woodson Counties, and Geary and Riley Counties for Highway Construction only, Kansas					
Change:					
Description of Work to Read: Highway (does not include airport runways and taxiways; bridges over navigable waters, tunnels; rest areas which include building structures; and railroad construction) and Water and Sewer Line Construction					

DECISION #IA77-4052 - Mod. #4
(42 FR 12593 - March 4, 1977)
Statewide Louisiana

Change:
Electricians:
Electricians:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 7	$10.35	.85	1%		1%
Cable splicers:					
Zone 7	10.85	.85	1%		1%
Line construction:					
Zone 7:					
Linemen; Operators	10.35	.85	1%		1%
Cable splicers	10.85	.85	1%		1%
Groundmen	8.35	.85	1%		1%

DECISION #MI76-2138 - Mod. #3
(41 FR 48988 - November 5, 1976)
Bay, Genesee, Huron, Iosco, Lapeer, Saginaw, St. Clair, Sanilac, Shiawassee & Tuscola Counties, Michigan

ADD:
Glaziers:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Genesee, Lapeer & Shiawassee Counties	$9.09	.55	.70		.02
St. Clair County	9.77	.55	.65		
Bay, Huron, Iosco, Tuscola & Saginaw Counties	8.45		.50	.25	.01

DECISION #MI77-2019 - Mod. #1
(42 FR 10238 - February 18, 1977)
Genesee, Lapeer, Saginaw, St. Clair & Shiawassee Counties, Michigan

CHANGE:
Electricians:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Genesee, Lapeer & Shiawassee Counties	$6.63	.40	1%+.75		.02

ADD:
Glaziers:

Genesee, Lapeer & Shiawassee Counties	9.09	.55	.70		.02
Saginaw County	8.45		.50	.25	.01
St. Clair County	9.77	.55	.65		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MN76-2001 - Mod. #7 (41 FR 2551 - January 16, 1976) Anoka, Carver, Hennepin, Scott, Dakota, Ramsey & Washington Counties, Minnesota					
CHANGE:					
Electricians:					
Residential					
Carver, Hennepin & Scott Cos; Twps. of Anoka, Fridley, Grow & Ramsey in Anoka County:					
Construction of all new family dwellings up to and including four-plexes. Old work shall apply to all residential remodeling, rewiring & repairing, in apartment buildings up to & including a 400 ampere service. This is limited to 3 floors occupied as living quarters floors & non-elevator apartment buildings	$6.73	.48	1%	.27	1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #77-4031 - Mod. #1 (42 FR 12618 - March 4, 1977) Description of Work and Locations: Heavy and Highway Construction, Missouri					
Change:					
CARPENTERS & PILEDRIVERMEN:					
Zone 3	$11.00	.50	.30		.05
LINE CONSTRUCTION:					
Zone 4					
Lineman	10.58	.45	1%		.25%
Groundman - Class I	9.02	.45	1%		.25%
Groundman - Class II	7.38	.45	1%		.25%
Groundman - Class A	6.72	.45	1%		.25%
Groundman - 1st. 6 mos.	6.42	.45	1%		.25%
PAINTERS:					
Zone 1					
Brush & roller	10.19	.55	.70		.08
Spray	11.19	.55	.70		.08
Bridge	10.94	.55	.70		.08
Zone 2					
Brush	8.15		.25		
Spray	8.90		.25		
Zone 3					
Brush	7.05				
Spray	7.45				
Zone 11					
Brush	9.05		.50		
Spray, bridgemen, steelman	9.55		.50		
OMIT:					
Zone 13	10.15	1.00	.95		
Zone 12	8.30		.50		
AREAS COVERED BY CEMENT MASONS ZONES					
Zone 12 - Clark, Knox, Lewis and Scotland Counties.					
Zone 13 - St. Louis City and County, Jefferson and St. Charles Counties; and Counties of Crawford, Franklin, Iron, Lincoln, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve, Warren and Washington on projects $100,000.00 and over.					

DECISION #77-4051 (Cont'd.)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
Zone 12	10.15	1.00	.95		
AREAS COVERED BY CEMENT MASONS ZONES					
Zone 12 - St. Louis City and County, Jefferson and St. Charles Counties; and Counties of Crawford, Franklin, Iron, Lincoln, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve, Warren and Washington on projects $100,000.00 and over.					
DECISION #NV77-5012 - Mod. #1					
(42 FR 8947 - February 11, 1977					
Nevada Test Site including the Tonopah Test Range in Clark and Nye Counties, Nevada					
Change:					
Asbestos Workers	$11.92	.78	$1.17	$1.00	
Carpenters:					
Carpenters	10.33	.65	.90	.80	.03
Floor Layers	10.355	.65	.90	.80	.03
Millwrights	10.83	.65	.90	.80	.03
Painters:					
Brush; Roller	9.21	.75	.35	1.50	.06
Paperhangers; Spray; Steel; Sandblasters; Swing Stage; Tapers; Buffing; Sandblasters, Steel	9.56	.75	.35	1.50	.06
Sheet Metal Workers	10.88	.93	1.60	1.00	.05

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. NM77-4074 - Mod. #1					
(42 FR April 8, 1977)					
Statewide, New Mexico					
CHANGE:					
BOILERMAKERS	$9.625	.775	1.00	.50	.02
GLAZIERS ZONE DEFINITIONS TO READ:					
ZONE I - Dona Ana, Luna and Otero Counties					
ZONE II - Statewide except Dona Ana, Luna and Otero Counties					
ADD:					
LABORERS (HEAVY ENGINEERING)					
Grade setter	6.61	.53	.50		.05
DECISION NO. #NY77-3014 Mod. #1					
(42 FR 8966-February 11, 1977)					
Orange County, New York					
Change:					
Asbestos Workers	$13.29	5%	10%		
Boilermakers	12.33	5%	15%	7%	.02
Electricians: Remainder of County	10.60	.79	1% + .75	.60	4%
Glaziers	10.70	.66	1.66	.47	.01
Ironworkers, Structural, Ornamental, Reinforcing	9.75	1.45	2.02	1.50	
DECISION NO. NY77-3015-Mod.#1					
(42 FR 8973-February 11, 1977)					
Erie County, New York					
OMIT: Test Core Drill Machine from Building Power Equipment Operators	and Heavy and Highway Power Equipment Operators.				

DECISION NO. OK77-4063 - Mod. #2
(42 FR 13790 - March 11, 1977)
Oklahoma, Cleveland, Caddo, Canadian, Grady, Kingfisher, Logan, Lincoln, McClain, Seminole, and Pottawatomie Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
PAINTERS:					
Brush	$7.95	.50	.35	.35	.03
Spray under 30 feet	8.45	.50	.35	.35	.03
Spray over 30 feet	8.95	.50	.35	.35	.03
Sandblasting under 30 feet	8.45	.50	.35	.35	.03
Sandblasting over 30 feet	8.95	.50	.35	.35	.03
Hazardous work	8.45	.50	.35	.35	.03
Paperhanging	8.95	.50	.35	.35	.03
Tapers using machine tools	8.45	.50	.35	.35	.03

DECISION #PA76-3271 - Mod. # 3
(41 FR 48993 - November 5, 1976)
Luzerne County, Pennsylvania

Change:					
Plasterers	$9.40				
Painters:					
Remainder of County					
Brush	8.55	.50	.30		.05
Tapers	8.81	.50	.30		.05
Hazardous	9.81	.50	.30		.05

DECISION #PA77-3026 - Mod. # 2
(42 FR 7066 - February 4, 1977)
Lancaster County, Pennsylvania

Change:					
Marble Setters	8.00	.45	.45		
Tile Setters	8.00	.45	.45		
Terrazzo Workers	8.00	.45	.45		

DECISION NO. 7176-7150- Mod 41
(41 FR 43906- November 5, 1976)
Bristol, Kent, & Providence Counties, Rhode Island

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Building construction:					
Asbestos workers	$10.23	1.00	1.18		
Bricklayers, cement masons, and stonemasons: Ashton, Berkley, Central Falls, Cumberland, Lincoln, Londsdale, Pawtucket, and Valley Falls	10.15	.85	.50		.01
Bricklayers; cement masons; plasterers; stonemasons; marble, tile, and terrazzo workers: Woonsocket, N.Smithfield, Burrville, and Cumberland Hill	9.55	.95	1.00		.01
Glaziers	8.08	.57	1.03		.01
Lathers	9.50	.65	.45		.01
Line construction:					
Linemen	10.98	.65	1%	d	3/8of1%
Driver Groundman	9.20	.65	1%	d	3/8of1%
Groundman	7.66	.65	1%	d	3/8of1%
Equipment operator	9.06	.65	1%	d	3/8of1%
Marble, tile, and terrazzo workers' helpers	8.20		1.00		
Roofers:					
Composition	9.90	.45	.25		
Slate, tile & Precast concrete	10.10	.45	.25		
Helpers, Class A	9.05	.45	.25		
Helpers, Class B	8.55	.45	.25		
Heavy, highway, and marine construction:					
Line construction:					
Linemen	10.98	.65	1%	a	3/8of1%
Equipment operator	9.86	.65	1%	a	3/8of1%
Groundman	7.66	.65	1%	a	3/8of1%
Driver groundman	9.20	.65	1%	a	3/8of1%

DECISION NO. #R176-2151- Mod #1 (41 FR 50196- November 12, 1976) Newport County, Rhode Island	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	$10.28	1.00	1.18		
Clasiers	8.88	.52	1.03		
Line Construction- Building, heavy, highway, & marine constr.					
Linemen	10.98	.65	1%	d	3/8of1%
Groundman	7.66	.65	1%	d	3/8of1%
Equipment operator	9.86	.65	1%	d	3/8of1%
Driver groundman	9.20	.65	1%	d	3/8of1%
Roofers:					
Composition, waterproofers	9.90	.45	.25		
Slate, tile, precast concrete	10.10	.45	.25		
Helpers, Class "a"	9.05	.45	.25		
Helpers, Class "b"	8.55	.45	.25		
Lathers	9.45	.65	.55		.01

DECISION NO. R176-2152- Mod #1 (41 FR 51362- November 19, 1976) Washington County, Rhode Island					
Change:					
Asbestos workers	10.28	1.00	1.18		
Clasiers	8.88	.52	1.03		.01
Lathers	9.45	.65	.55		.01
Line construction (Building, heavy, highway, marine constr.):					
Lineman	10.90	.65	1%	c	3/8of1%
Driver groundman	9.20	.65	1%	c	3/8of1%
Groundman	7.66	.65	1%	c	3/8of1%
Equipment operator	9.86	.65	1%	c	3/8of1%
Roofers:					
Composition, waterproofers	9.90	.45	.25		
Slate, tile, precast concrete	10.10	.45	.25		
Helpers, Class A	9.05	.45	.25		
Helpers, Class B	8.55	.45	.25		

Decision # TN77-1038 - Mod. # 1 (42 FR-17782 - April 1, 1977) Hamilton, Bradley, Marion, Meigs, Polk and Rhea Counties, Tennessee.	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Hamilton County Building Construction (does not include single homes and garden type apartments up to and including 4 stories) and Heavy Construction					
Bradley, Marion, Meigs, Polk, Rhea Building Construction Only (does not include single family homes and garden type apartments up to and including 4 stories)					

DECISION #TX76-4192 - Mod. #5 (41 FR 55289 - December 17, 1976) Jefferson & Orange Cos., Texas					
Change:					
Carpenters:					
Millwrights	$11.355				
Piledrivermen	10.96		.30		

DECISION #TX77-4006 - Mod. #2 (42 FR 4105 - January 21, 1977) Travis County, Texas					
Change:					
Marble setters	7.96	.45			.04
Terrazzo workers	7.96	.45			.04
Tile setters	7.96	.45			.04

DECISION #TX77-4007 - Mod. #2 (42 FR 11190 - January 21, 1977) Wichita County, Texas					
Change:					
Carpenters:					
Carpenters	9.07	.43	.40		.07
Millwrights	9.57	.43	.40		.07

MODIFICATIONS P. 13

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4044 - Mod. #2 (42 FR 11225 - February 25, 1977) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas					
Change:					
Carpenters:					
Zone 2:					
Carpenters	$ 9.07	.43	.40		.07
Millwrights	9.57	.43	.40		.07
DECISION #TX77-4071 - Mod. #1 (42 FR 17787 - April 1, 1977) El Paso County, Texas					
Change:					
Power Equipment Operators:					
Group 1	6.74	.60	.60		.10
Group 2	7.32	.60	.60		.10
Group 3	7.41	.60	.60		.10
Group 4	7.46	.60	.60		.10
Group 5	7.54	.60	.60		.10
Group 6	7.78	.60	.60		.10
Group 7	7.94	.60	.60		.10
Group 8	7.41	.60	.60		.10
Group 9	7.64	.60	.60		.10
Group 10	7.94	.60	.60		.10

MODIFICATIONS P. 14

Decision NO.: VA76-3854 Mod. #1 (41 FR 44650-October 8, 1976) York County and the Cities of Hampton and Newport News (including Langley Air Force) Virginia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AMD: To Location York County.					

SUPERSEDEAS DECISION

STATE: Alabama COUNTY: Tuscaloosa
DECISION NO.: AL77-1645 DATE: Date of Publication
Supersedes Decision No.: AL76-1027 dated February 20, 1976, in 41 FR-7897
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	7.71	.30	.30		.05
Bricklayers, Marble masons, Stonemasons	8.65		.40		.05
Carpenters	6.95				.015
Cement masons	5.175				
Electricians	10.10	.30	1%+.40		½ of 1%
Glaziers	6.85	.20	.20		
Ironworkers	8.50	.60	.815		.04
Laborers:					
Laborers	3.15	.15	.10		
Mason tenders	3.15	.15	.10		
Mortar mixers	3.25	.15	.10		
Millwrights	9.15				
Painters, brush	6.65	.50			
Plasterers	5.175				
Plumbers: Steamfitters	8.85	.30	.35		.05
Roofers	5.45		.20		.05
Sheet metal workers	9.75	.69	.82		.09
Soft floor layers	5.45				
Tile setters	8.40		.40		.05
Truck drivers					
POWER EQUIPMENT OPERATORS:					
Tractors, farm	3.50				
Scrapers	4.00				
Bulldozers, Front end loader	5.00				
Pumps	5.64				
Oiler	6.25	.20	.20		
Cranes, lift truck	7.60	.20	.20		

SUPERSEDEAS DECISION

STATE: Connecticut COUNTY: New Haven
DECISION NO.: CT77-3045 DATE: Date of Publication
Supersedes Decision No. CT76-2109, dated September 10, 1976 in 41 FR 38705.
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	App. Tr.	O
Carpenters	6.85					
Cement Masons	10.10					
Electricians	6.67					
Laborers	5.33					
Painter, brush	6.25					
Plumbers	7.94					
Roofers	9.65					
Sheetrock Installer	8.00					
Sheet Metal Workers	7.30					
Taper	8.00					
Soft Floor Layers	4.63					
Truck Drivers:						
2 axle	4.00					
3 axle	5.75					
Power Equipment Operators:						
Backhoe	10.85					
Asphalt Paver	9.96					
Bulldozer	8.99					

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Black Hawk (City of Waterloo and abutting municipalities)

DECISION NO.: IA77-4069 DATE: Date of Publication

Supersedes Decision No. IA76-4092; dated May 21, 1976, in 41 FR 21079

DESCRIPTION OF WORK: Building Construction (does not include single homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.60	.35	.60		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & STONEMASONS	9.79	.38	.50		
CARPENTERS:					
Carpenters; Piledrivermen	8.08	.38	1.00		
Millwrights	8.48	.38	1.00		
CEMENT MASONS	8.00	.38	.81		
ELECTRICIANS:					
Electricians	10.48	.45	1%		1%
Cable splicers	10.79	.45	1%		1%
ELEVATOR CONSTRUCTORS	9.535	.495	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.485	.32	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
IRONWORKERS	10.565				
LABORERS:					
GROUP 1 - Common laborers; Carpenters' helpers; moving; wrecking & demolition	7.00	.38	.20		
GROUP 2 - Mason tenders; hod carriers; machine and air tool operators	7.10	.38	.20		
GROUP 3 - Powderman	7.25	.38	.20		
LATHERS	7.24	.31			
LINE CONSTRUCTION:					
GROUP 1- Cable splicers; Lineman; welder; technicians; all rigs setting assembled "H" fixtures and steel transmission structures	9.32	.45	1%	b	4%
GROUP 2 - Groundman; truck driver (without winch); Experienced (not less than 6 months)	6.06	.45	1%	b	4%
GROUP 3 - Groundman; truck driver (with winch)	6.24	.45	1%	b	4%
GROUP 4 - Blaster; special equipment operations (hole digging machines, all tractions, transmission line pole hauling & setting equipment other than assembled "H" fixtures)	7.46	.45	1%	b	4%
GROUP 5 - Groundman-1st 6 mos.	5.13	.45	1%	b	4%

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush, roller	8.08		.20		.03
Tapers	8.18		.20		.03
Spray	8.58		.20		.03
PLASTERERS	9.24	.38			
PLUMBERS & STEAMFITTERS	9.78	.60	.85		.08
ROOFERS	8.50				
SHEET METAL WORKERS	10.02	.50	.22		.02
SOFT FLOOR LAYERS	8.08	.38	1.80		
SPRINKLER FITTERS	11.23	.60	.90		.08
TILE SETTERS	7.01	.31		.25	
TRUCK DRIVERS:					
Up to 6 tons	5.14	.25	.30		
Helpers	4.97	.25	.30		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTE:

a - Employer contributes 4% of basic hourly rate for over 5 years' service and 2% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Six Paid Holidays - A thru F

b. Seven paid holidays - A thru G

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day; G-Friday after Thanksgiving

BUILDING, WATER TREATMENT PLANTS & SEWAGE DISPOSAL PLANTS CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	9.56	.50	.50		.05
GROUP 2	9.435	.50	.50		.05
GROUP 3	8.59	.50	.50		.05
GROUP 4	8.265	.50	.50		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.; tower cranes; truck cranes and cherry pickers 12½ ton & over rated capacity; derricks; piledrivers and extractors; caisson rigs; side boom and winch truck used for erection of structural steel and moving and setting of heavy machinery; 3 drum hoist; welders; mechanics; locomotive; dredge (levermen)

GROUP 2 - 1 and 2 drum hoists; air and electric tuggers (on power plants or setting steel and grating); economobiles; plant mixers; farm type tractors (with loaders, backhoes, attachments, etc.); scrapers (tournapull, etc.); endloaders; dredge (engineer); side boom and winch truck other than Group No. 1; motor patrol; bulldozers; push cat; truck cranes and cherry pickers (under 12½ tons); concrete mixers (1 yard and over); ditching machine (8" and over); fork lifts (on steel erection and machinery moving or hoisting above one complete story); concrete pump; dewatering pumps; temporary hoist cage operated; second man on locomotive; vibrating concrete spreader (Gomaco, C-450 or equal)

GROUP 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (one or a combination of 250 cfm or more); pumps 3" or over; welding machine 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 KW & over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self-propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

GROUP 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN	7.75	.38			
CEMENT MASONS	6.86				
LABORERS:					
Group 1	6.60	.30	.10		
Group 2	6.35	.30	.10		
Group 3	6.10	.30	.10		
Group 4	5.95	.30	.10		
Group 5	5.85	.30	.10		

LABORERS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Sandblasters; Powderman and Blaster; Pipe layer, sewer, water, telephone conduits, etc.; Sewer utility man; Gunnite nozzleman; Diamond and core drills, powered by air; All work performed by Laborers working from a bos'n chair, swinging stage, life belt, tag line or block and tackle; Drill operator of air track, wagon drills and similar drills

GROUP 2 - Tree climber; Form setters; Bakers; Boxtenders; Asphalt curb machines; Potmen, not mechanical; Bull float, hand operated; Scalers; Timbermen; Underpinning and shoring; Caissons over 12 ft.; Grade checker and cutting torches on demolition work

GROUP 3 - Power buggyman; Concrete and paving sawman; Form liner, expansion joint assembler; Bottom man; Caulker and jointer and painter; Timber and chain saw man; Mechanical grouters; Automatic concrete power curbing machines; Stresser or stretcherman on post-tension or pre-stressed concrete on or off the job; Powderman helpers

GROUP 4 - Form tamper; Air, gas and electric tool operators, vibrators, barco hammer, paving breakers, spaders, tampers; electric drills, hammers and jack hammers; Tree groundmen; Chuck tenders; Drill helpers, tool room men and checkers; Sand blaster helper; Concrete processing material and monitors; Cement finishers' helpers; Stringman on paving work

GROUP 5 - Fence erectors; Handling and placing of metal mesh, dowel bars, reinforcing bars and chairs; Dumpmen and spotters; Carrying reinforcing rods; Corrugated culvert pipe; Concrete drainage pipe; Stake chaser, seeding, mulching and planting of trees, shrubs and flowers; Water boy; Common laborers; Rodmen; Tending to carpenters; Hot asphalt labor

HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appt. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	7.30	.40	.40		.03
Group 2	6.90	.40	.40		.03
Group 3	6.50	.40	.40		.03
TRUCK DRIVERS	6.34	.34			

POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY CONSTRUCTION) CLASSIFICATION DEFINITIONS

GROUP 1 - Power shovel, crane, backhoe and dragline; central mix plant operator; dredge engineer; dredge leverman; paver or spreader operator; hoisting engineer (steel erection); motor patrol; piledriver machine; concrete mixer; tow or push boat operator; master mechanic; C.M.I. paver; C.M.I. subgrader (or equivalent); asphalt plant; front end loader; scraper; bulldozer; push cat tractor pulling scraper; sideboom tractor; churn or rotary drill; trenching machine (Cleveland 80 or similar capacity); asphalt laydown; asphalt screed; asphalt heater-planer unit; asphalt roller; self-propelled elevating grader or similar machine; spreader (concrete); Horizontal boring machine; mechanics-welders; group equipment greaser; concrete pump; self-propelled curb machine

GROUP 2 - Concrete curb breaker; concrete widening machine; paving breaker; barber-greene, haiss loader or similar machine; tractor pulling ripper, disc, sheepsfoot or flat roller; self-propelled sheepsfoot roller; self-propelled roller (other than asphalt); distributor; screening and washing plant; self-propelled vibrating compactor; trenching machine (other than above); steel placing machine; conveyor; finishing machine (on concrete); flexplane; bullfloat; form grader

GROUP 3 - Boiler; mechanical broom; oiler or mechanics helper or Group greaser helper; farm-type tractor (pulling disc, harrow or roller); welding machine; pump operator (other than dredge); boom and winch truck; compressor; tank car heater (combination boiler and booster); pumps on well points and deep wells for dewatering; truck crane combination driver-oiler; concrete curbing machine; safety boat operator; batch plant (dry)

STATE: Kansas
COUNTIES: Douglas, Jefferson, Leavenworth, Miami & Shawnee
DECISION NO.: KS77-4084
DATE: Date of Publication
Supersedes Decision No. KS77-4050, dated March 4, 1977 in 42 FR 12589
DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS and PILEDRIVERMEN:					
Zone 1	$8.55	.35	.25		.05
Zone 2	8.15	.35	.25		.05
Zone 3	11.00	.50	.30		.05
Zone 4:					
Carpenters	10.75	.50	.30		.05
Piledrivermen	11.00	.50	.30		.05
Zone 5	5.375	.275	.25		.05

AREAS COVERED BY CARPENTERS AND PILEDRIVERMEN ZONES

Zone 1 - Douglas and Shawnee Counties (Includes Forbes Air Force Base and within the City of Topeka and the City of Lawrence and with 3 miles of the city limits of these cities)
Zone 2 - Remainder of Douglas and Shawnee Counties
Zone 3 - Leavenworth County
Zone 4 - Miami County
Zone 5 - Jefferson County

CEMENT MASONS:					
Zone 1 - Leavenworth and Miami Counties	9.655	.40	.50	1.25	
Zone 2 - Douglas and Shawnee Cos	8.80	.35	.35		
Zone 3 - Jefferson County	8.85	.40	.35		.05
ELECTRICIANS:					
Zone 1 - Leavenworth County (Delaware, High Prairie, Kickapoo and Leavenworth) Townships)	11.22	.39	1%+.51	.80	.06
Zone 2 - Douglas, Jefferson, Miami, Shawnee and the remainder of Leavenworth Counties	11.35	.45	1%+.55		.05
IRONWORKERS	9.60	.70	1.00	1.00	.05
LABORERS:					
Group 1					
Zone 1	6.00	.40	.35		.05
Zone 2	6.80	.40	.35		.05
Zone 3	6.85	.35	.35		.05
Zone 4	4.625	.35	.35		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Group 2					
Zone 1	$6.15	.40	.35		.05
Zone 2	6.95	.40	.35		.05
Zone 3	7.00	.35	.35		.05
Zone 4	4.775	.35	.35		
Group 3					
Zone 1	6.25	.40	.35		.05
Zone 2	7.05	.40	.35		.05
Zone 3	7.10	.35	.35		.05
Zone 4	4.875	.35	.35		
Group 4					
Zone 1	6.40	.40	.35		.05
Zone 2	7.20	.40	.35		.05
Zone 3	7.25	.35	.35		.05
Zone 4	5.025	.35	.35		
Group 5					
Zone 1	6.50	.40	.35		.05
Zone 2	7.30	.40	.35		.05
Zone 3	7.35	.35	.35		.05
Zone 4	5.275	.35	.35		

CLASSIFICATION DEFINITIONS

Laborers:
Group 1 - Board mat weavers and cable tiers; georgia buggy (manually operated); mixerman-no skip lift; nailers; salamander tenders; track men; tractor swamper; truck dumper; wire mesh setter; water pump to to 4 inches; and all other general laborers including flagman
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 and scale man; mixer man; pier hole man working 10 feet 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 and applying; nozzle burner (cutting torch)
Group 4 - Conduit pipe; tile and duct line setter; form setter and liner on concrete paving; powderman; sandblasting and gunnite nozzleman; sanitary sewer plep layer
Group 5 - Leadmen or pusher

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (cont'd)					
AREA COVERED BY LABORERS					
Zone 1 - Jefferson County					
Zone 2 - Douglas and Shawnee Cos.					
Zone 3 - Leavenworth County					
Zone 4 - Miami County					
LINE CONSTRUCTION:					
Zone 1 - Remainder of Leavenworth Co.					
Lineman	10.56	.38	1%+.15		½%
Heavy equipment operator	9.83	.38	1%+.15		½%
Groundman powderman	7.34	.38	1%+.15		½%
Groundman	6.97	.38	1%+.15		½%
Groundman (1st year)	5.99	.38	1%+.15		½%
Zone 2 - Douglas, Jefferson, Miami and Shawnee Cos. and Southwestern 2/3 of Leavenworth County					
Lineman	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 and Equipment Ops.:					
1st year	5.89	.45	1%		½%
2nd year	7.05	.45	1%		½%
Over 2 years' experience	7.67	.45	1%		½%
POWER EQUIPMENT OPERATORS:					
Zone 1 - Leavenworth County					
Group 1	10.10	.50	1.00	.75	.10
Group 2	9.85	.50	1.00	.75	.10
Group 3	9.60	.50	1.00	.75	.10
Group 4	8.60	.50	1.00	.75	.10
Group 5	10.35	.50	1.00	.75	.10
Group 6	10.60	.50	1.00	.75	.10
Group 7	10.10	.50	1.00	.75	.10
Group 8	9.10	.50	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

Group 1 - Asphalt paver and spreader, asphalt plant console operator, auto grader, back hoe, blade operator, all types, boiler - 2; booster pump on dredge, boring machine (truck or crane mounted); bulldozer operator; clam-shell operator; compressor maintenance operator - 2; concrete plant operator-central mix, concrete mixer paver, crane operator; derrick or derrick trucks; Ditching machine, dragline operator, dredge engineman, dredge operator, drill-cat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled, high loader-fork lift; locomotive operator, standard gauge, Mechanics and welders, maintenance operator, mucking machine, pile driver operator, pitman crane operator, pump-2; quad-trac; scoop operator - all types; scoops in tandem, self-propelled rotary drill (Leory or equal - not air trac); shovel operator, side discharge spreader; sideboom cats, skimmer scoop operator, slip-form paver (CMI, REX, or equal); throttle man, truck crane, welding machine maintenance operator - 2; hoisting engine - 2 active drums

Group 2 - "A" frame truck, asphalt hot mix silo, asphalt plant fireman, drum or boiler, asphalt plant mixer operator, asphalt plant man, asphalt roller backfiller operator; chip spreader, concrete batch plant, dry-power operated, concrete mixer operator, skip loader, concrete pump operator, crusher operator; elevating grader operator, greaser, hoisting engine - 1 drum, Latourneau rooter, multiple compactor, pavement breaker, self-propelled of the hydra-hammer or similar type, power shield, pug mill operator, stump cutting machine, towboat operator, tractor operator - over 50 HP

Group 3 - Boilers - 1; chip spreader (front man) churn drill operator, compressor maintenance operator - 1; concrete saws, self-propelled, conveyor opr., distributor operator, finishing machine opr., fireman, rig, float operator, form grader operator, pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor - 50 HP or less without attachments; vibrating machine operator, hot hand; welding machine maintenenace operator - 1

Group 4 - Mechanic's helper; oiler

Group 5 - Clamshells, 3 yd. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; pile drivers, 80 ft. of boom or over (including jib); shovels, 3 yd. capacity or over

Group 6 - Crane or rigs, over 200 ft. of boom (including jib)

Group 7 - Hoists (each additional drum over 1 drum)

Group 8 - Oiler drivers, all types

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) feet or more in length or depth will be paid fifty (50) cents per hour above the regular classification.

DECISION NO. KS77-4084

POWER EQUIPMENT OPERATORS CONTD: Zone 2 - Douglas, Jefferson, Miami and Shawnee Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	8.60	.50	1.00	.75	.10
Group 2	8.35	.50	1.00	.75	.10
Group 3	8.10	.50	1.00	.75	.10
Group 4	7.85	.50	1.00	.75	.10
Group 5	7.50	.50	1.00	.75	.10
Group 6	7.60	.50	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:
Group 1 - Master mechanic

Group 2 - Asphalt paver and spreader, backhoe, 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, duclid loader, hoist - 2 active drums; loader, all types, mechanic or welder, mixermobile, multi-unit scraper, piledriver operator, power shovel operator, quad track; scoop operators, all types; sideboom cat-cherry picker; skimmer scoop operator

Group 3 - Asphalt plant operator, elevating grader operator; pushcat operator

Group 4 - A-frame truck; asphalt roller operator; asphalt plant boiler fireman, backfiller operator, barger green loader, boiler - other than asphalt, bull float operator, chrun drill operator, compressor operator (1); concrete central plant operator, concrete mixer opr., 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 sigilar type); pump operator, 4" or over, two; pump operator, other than dredge; screening and wash plant operator, small machine operator; spreader box operator, self-propelled; tractor operator over 50 h.p.; self-propelled roller operator, other than asphalt; siphons and jets; subgrading machine operator, tank car heater operator, combination booster and boilers, towboat operator, vibrating machine operator, mot hand

Group 5 - Concrete gang saw, self-propelled (con-cut); conveyor operator; harrow, disc. seeder; oiler, tractor operator, 50 h.p. or less without attachments

Group 6 - Oiler, motor crane

DECISION NO. KS77-4084

TRUCK DRIVERS: Zone 1 - Leavenworth County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	8.59	.50	1.00	.75	
Group 2	8.79	.50	1.00	.75	
Group 3	9.10	.50	1.00	.75	
Group 4	9.25	.50	1.00	.75	
Group 5	8.365	.50	1.00	.75	

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:
Group 1 - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle

Group 2 - Material trucks, tandem, two teams, semi-trailers, winch truck-fork trucks; distributor drivers and operators; agitator and transit mix tank wagon drivers, single axle; tank wagon drivers; tandem or semi-trailer; insley wagons, dump trucks, excavator 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and other similar excavating equipment

Group 3 - A-frame, lowboy, boom truck drivers

Group 4 - Mechanics and welders

Group 5 - Mechanics' helpers, oilers and greasers

TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 2 - Douglas and Shawnee Cos.					
Group 1	6.90	.40	.35		
Group 2	7.00	.40	.35		
Group 3	7.15	.40	.35		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:

Group 1 - Pickups, panel trucks, station wagons, flat beds, dump and batch trucks single axle

Group 2 - Tandem trucks, warehousemen 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; tournatockers; atheys, dumpsters and similar off-road equipment and mechanics on such equipment

Zone 3 - Miami County	8.35	.50	1.00	.75	

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 4 - Jefferson County					
Group 1	4.22	.275	.25		
Group 2	4.37	.275	.25		
Group 3	4.42	.275	.25		
Group 4	4.47	.275	.25		
Group 5	4.65	.275	.25		
Group 6	4.47	.275	.25		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS:

Group 1 - Pickups, panel trucks, station wagons

Group 2 - Flat beds, dump and batch trucks, single axle

Group 3 - Tanden trucks

Group 4 - Lowboys, semi-trailers, all transit mixer trucks (single or tanden axle); A-frame and winch trucks when used as such

Group 5 - Euclid, end and bottom dump; tournatockers; atheys; dumpsters and similar off-road equipment and mechanics on such equipment

Group 6 - Watchmen or partsmen; mechanic helpers; servicemen

STATE: Kansas COUNTY: Leavenworth
DECISION NO.: KS77-4085 DATE: Date of Publication
Supersedes Decision No. KS77-4049, dated February 25, 1977 in 42 FR 11219
DESCRIPTION OF WORK: Building Construction, (does not include 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	$11.52	.50	.80		.05
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS; Stonemasons	9.725	.55	.35	1.00	
CARPENTERS; Millwrights and Pile-drivermen	11.00	.50	.30		.05
CEMENT MASONS	9.475	.40	.50	.50	
ELECTRICIANS:					
Zone 1 - Delaware, Kickapoo, High Prairie and Leavenworth Townships)	11.22	.39	1%+.51	.80	.06
Zone 2 - Remainder of County	11.35	.45	1%+.55		.05
ELEVATOR CONSTRUCTORS	10.56	.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 the basic hourly rate; also 6 paid holidays.

GLAZIERS	9.90	.55	.59	16.46%	.03
IRONWORKERS	9.60	.70	1.00	1.00	.05
LABORERS:					
General laborer	7.40	.30	.30		.05
Power tool operators, compactors, concrete breakers, chipping tools, drilling tools, concrete saws, mechanically operated georgia buggy, rubbing concrete, form setters and liners, concrete paving, mason tenders, plaster tenders, mortar mixers for plasterers, masons & cement finishers, all stocking scaffold, clean up for masons (building & wrecking), sand & concrete gun nozzleman, powderman	7.65	.30	.30		.05
LABORERS (Site Preparation and Grading):					
Group 1	6.85	.35	.35		.05
Group 2	7.00	.35	.35		.05
Group 3	7.10	.35	.35		.05
Group 4	7.25	.35	.35		.05
Group 5	7.35	.35	.35		.05

CLASSIFICATION DEFINITIONS

Group 1 - Board mat weavers and cable tiers, goergia 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, and all other general laborer including flagman

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 and 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, baroo tamper, concrete saw, creosote material - handling and applying, nozzle burner (cutting torch and burning bar)

Group 4 - Conduit pipe, tile and duct line setter, form setter and liner on concrete paving, powderman, sandblasting and 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	10.60	.40			
LINE CONSTRUCTION:					
Zone 1 - Southwest 2/3 of Leavenworth County					
Lineman	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%
Zone 2 - Remainder of Leavenworth County					
Lineman	10.56	.38	1%+.15		½%
Heavy Equipment Operator	9.83	.38	1%+.15		½%
Groundman powderman	7.34	.38	1%+.15		½%
Groundman	6.97	.38	1%+.15		½%
Groundman (1st year)	5.99	.38	1%+.15		½%
MARBLE AND TILE SETTERS	10.82	3.65%	3.25%		
MARBLE AND TILE SETTERS' HELPERS	9.00				
PAINTERS:					
Zone 1- Northern 2/3 of County					
Brush, roller, tapers	8.10	.55	.70		
Spray	9.10	.55	.70		
Zone 2 - Remainder of County					
Brush, roller, tapers	8.70	.30	.35		
Spray	9.70	.30	.35		
PLASTERERS	11.15				
PIPEFITTERS	11.37	.57	1.15		.11
PLUMBERS	11.64	.65	.80		.11
POWER EQUIPMENT OPERATORS (Building Construction):					
Group 1	10.10	.50	1.00	.75	.10
Group 2	9.85	.50	1.00	.75	.10
Group 3	8.60	.50	1.00	.75	.10
Group 4	9.10	.50	1.00	.75	.10
Group 5	9.10	.50	1.00	.75	.10
Group 6	9.35	.50	1.00	.75	.10
Group 7	10.35	.50	1.00	.75	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Building Construction) CONT'd:					
Group 8	10.60	.50	1.00	.75	.10
Group 9	10.10	.50	1.00	.75	.10
Group 10	11.10	.50	1.00	.75	.10
Group 11	10.60	.50	1.00	.75	.10
Group 12:					
(a)	9.85	.50	1.00	.75	.10
(b)	9.60	.50	1.00	.75	.10
(c)	9.60	.50	1.00	.75	.10
(d)	8.85	.50	1.00	.75	.10

POWER EQUIPMENT OPERATORS (Building Construction)

CLASSIFICATION DEFINITIONS

Group 1 - Asphalt paver and spreader, asphalt plant mixer operator, asphalt plant operator, back fillers, backhoe, all types, barber-green loader (similar type), blade-power, all types, boats-power, boilers (2), boring machines (all types), cableways, cherry pickers (all types), chip spreader, clamshells, combination concrete hoist and mixer such as mixermobile (with tower, 50¢ per hour additional, compressors (2), 105 ft. or over not more than 20' apart, compressors tandem (any sizes), compressors single, truck mounted, concrete ready-mixed plant, portable (job site); concrete mixer paver, crane-overhead, crusher, rock, derricks, and derrick cars (power operated), ditching machines, dozers, draglines, dredges - any type power grade-all - similar types, hoist, endless chain - power operated with power travel, loaders - all types, locomotives all types, mechanic and welder, mucking machine, orange peels, piledrivers - all types; pumps - material all types, push cats, scoops all types, self-propelled rotary drill, shovel, power, side boom, skimmer scoop, testhole machine, throttle man

Group 2 - A-frame trucks, boilers (1), brooms-power operated (all types), chip spreader (front man), clef plane operator, compressors (1) 105' or over, concrete saws, (self-propelled), conveyor operator, crab-power operated, curb finishing machine, firemen on rigs, flex plane, floating machine, form grader, fork lift - all types and sizes (except masonry), greaser, hoist, hoist, endless chain-power operated, hopper-power operated, hydra hammer (all types), lad-a-vator - similar type, mixers with side loaders, jennies, sub-grader, tractors over 50 h.p.,pumps (with well points); pump; rollers - all types, siphons, jets

Group 3 - Oiler

Group 4 - Fork lift-masonry

Group 5 - Oiler driver all types

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS CONTD:

Group 6 - Tractors (except when hauling material) less than 50 h.p.

Group 7 - Clamshells, 80 ft. of boom or over (including jib), crane or rigs 80 ft. of boom or over (including jib), draglines, 80 ft. of boom or over (including jib), piledrivers, 80 ft. of boom or over (including jib)

Group 8 - Cranes or rigs, over 200 ft of boom

Group 9 - Hoists each additional drum over 1 drum

Group 10 - Mater Mechanic

Group 11 - Crane - tower or climbing

Group 12 - Ready mixed concrete plants; (a) crane operator, (b) loader operator, (c) plant man, (d) conveyor operator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (CONT'D) Site Preparation and Grading					
Group 1	10.10	.50	1.00	.75	.10
Group 2	9.85	.50	1.00	.75	.10
Group 3	9.60	.50	1.00	.75	.10
Group 4	8.60	.50	1.00	.75	.10
Group 5	9.10	.50	1.00	.75	.10
Group 6	10.35	.50	1.00	.75	.10
Group 7	10.60	.50	1.00	.75	.10
Group 8	10.10	.50	1.00	.75	.10

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:

Group 1 - Asphalt paver and spreader, asphalt plant console operator, auto grader, backhoe, blade operator, all types, boilers - 2; booster pump or dredge, boring machine (truck or crane mounted), bulldozer operator, clamshell operator, compressor maintenance operator - 2; concrete plant operator, central mix, concrete mixer, paver, crane operator, derrick or derrick trucks, ditching machine, dragline operator, dredge engineman, dredge operator, drill cat with compressor mounted on cat, drilling or boring machine, rotary, self-propelled, high loader-fork lift, hoisting engine - 2 active drums, locomotive operator, standard gauge, mechanics and welders, field or shop, maintenance operator, mucking machine, piledriver operator, pitman crane operator, pump-2, quad-trac, scoop operator all types, scoops in tandem, self-propelled rotary drill (Leroy or equal - not air tac); shovel operator, side discharge spreader, sideboom cats, skimmer scoop operator, slip-form paver (CMI, REX, or equal), throttle man, truck crane welding machine maintenance operator - 2

POWER EQUIPMENT OPERATORS (CONTD):
Site Preparation and Grading

Group 2 - A-frame truck asphalt hot mix silo, asphalt plant fireman, drum or boiler, asphalt plant mixer operator, asphalt plant man, asphalt roller operator, backfiller operator, chip spreader, concrete batch plant, dry power operator, concrete mixer operator, skiploader, concrete pump operator, crusher operator, elevating grader operator, greaser, hoisting engine-1 drum, latourneau rooter, multiple compactor, pavement breaker, self-propelled, of the hydra-hammer or similar type, power shield, pug mill operator, stump cutting machine, towboat operator, tractor operator over 50 h.p.

Group 3 - Boilers - 1 chip spreader (front man), churn drill operator, compressor maintenance operator - 1, concrete saws, self-propelled, conveyor operator, distributor operator, finishing machine operator, fireman, rig, float operator, form grader operator, pump, pump maintenance operator, other than dredge, roller operator, other than high type asphalt, screening and washing plant operator, self-propelled street broom or sweeper, siphons and jets, sub-grading machine operator, tank car heater operator operators - combination boiler and booster, tractor, 50 h.p. or less, without attachments, vibrating machine operator, not hand, welding machine maintenance operator-1

Group 4 - Mechanic's helpers, oiler

Group 5 - Oiler, driver, all types

Group 6 - Clamshells, 3 yds. capacity or over, crane or rigs, 80 ft of boom or over (including jib), draglines, 3 yds. capacity or over, piledrivers, 80 ft. of boom or over (including jib), shovels, 3 yds capacity or over

Group 7 - Cranes or rigs, over 200 ft of boom (including jib)

Group 8- Hoists (each additional drum over 1 drum)

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:	9.80	.45	.60		.04
Roofers					
Helpers:					
1st 6 mos.	5.88	.45	.60		.04
2nd 6 mos.	6.37	.45	.60		.04
3rd 6 mos.	6.86	.45	.60		.04
4th 6 mos.	7.35	.45	.60		.04
5th 6 mos.	7.84	.45	.60		.04
6th 6 mos.	8.33	.45	.60		.04
7th 6 mos.	8.82	.45	.60		.04
SHEET METAL WORKERS	11.355	.50	.50		.05
SPRINKLER FITTERS	11.23	.60	.90		.08
TERRAZZO WORKERS	10.48	3.65%	3.25%		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Building Construction:					
Group 1	8.525	.50	1.00		
Group 2	8.575	.50	1.00		
Group 3	8.65	.50	1.00		
Group 4	8.775	.50	1.00		
Group 5	8.675	.50	1.00		
Group 6	8.875	.50	1.00		
Group 7	8.725	.50	1.00		
Group 8	8.625	.50	1.00		

TRUCK DRIVERS (Building Construction) (Cont'd)

CLASSIFICATION DEFINITIONS

Group 1 - Warehousemen and stock man

Group 2 - Flat beds, pick-ups, dump trucks, under 10 yds.

Group 3 - Dump trucks, 10 yds.aand over, steel trucks, semi truck drivers

Group 4 - Straddle trucks, wheel tractors (when used for towing), hydro lift trucks, hydraulically operated serial lifts, heavy hauling, a-frame winch and fork lifts, heavy excavating (dumpter, euclid, etc.), double bottom units (20 tons cap. and over)

Group 5 - Distributor truck drivers and operators, oilers, greasers and mechanics' helpers

Group 6 - Mechanics

Group 7 - Transit mix, 5 yds. and over

Group 8 - Transit mix, under 5 yds.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Site Preparation and Grading					
Group 1	8.59	.50	1.00	.75	
Group 2	8.79	.50	1.00	.75	
Group 3	9.10	.50	1.00	.75	
Group 4	9.25	.50	1.00	.75	
Group 5	8.365	.50	1.00	.75	

TRUCK DRIVERS
CLASSIFICATION DEFINITIONS

Group 1 - One team, station wagons, pickup trucks, material trucks, single axle, tank wagon drivers, single axle

Group 2 - Material trucks, tandem, two teams, semi-trailers, winch trucks-fork trucks, distributors drivers and operators, agitator and transit mix, tank wagon drivers, single axle, tank wagon drivers tandem or semi-trailers, Insley wagon, dump trucks, excavating, 5 cu. yds. and over, dumpsters, half-tracks, speedace, euclids and other similar excavating equipment

Group 3 - A-frame, lowboy, and boom truck driver

Group 4 - Mechanics and welders

Group 5 - Mechanics' helpers, oilers and greasers

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

STATE: Nevada

COUNTIES: Statewide (excluding the Nevada Test Site and Tonopah Test Range), Nevada

DECISION NUMBER: NV77-5037

DATE: Date of Publication

Supersedes Decision No. NV77-5029 dated March 4, 1977, in 42 FR 12647.

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Clark, Esmeralda, Lincoln, Nye Counties	$ 12.11	.85	$ 1.10		
Elko, Eureka, White Pine Cos.	10.56	.52	1.17		
Remaining Counties	13.06	.90	1.02		
BOILERMAKERS	13.175	.775	1.00	.50	.02
BRICKLAYERS; Stonemasons:					
Clark, Esmeralda, Lincoln, Nye County (south of Hwy. #6)	11.37	.70	.60		.06
Remaining Counties and Nye County (north of Hwy. #6):					
Zone 1: 0-35 miles from Courthouse in Reno, Nevada	11.00	.50	.60		.01
Zone 2: 35-75 miles from Courthouse in Reno, Nevada	11.90	.50	.60		.01
Zone 3: 75 miles and over from Courthouse in Reno, Nevada	11.00	.50	.60		.01
BRICK TENDERS:					
Clark, Esmeralda, Lincoln, Nye Counties	8.47	.51	1.25	1.00	
Remaining Counties:					
Zone A: 0-35 miles from Courthouse in Reno, Nevada	9.25	.50	.90		.05
Zone B 35-75 miles from Courthouse in Reno, Nevada	10.15	.50	.90		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Clark, Esmeralda County (South of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah):					
Zone 1: Area within the City limits of Henderson, Nevada, and Boulder City, Nevada; area within a 10 mile radius of Las Vegas, Nevada; area within a 5 mile radius of Tonopah, Nevada; present fenced area of Nellis Air Force Base, as well as that area adjacent to Nellis Air Force Base bounded on the north by the Nellis spur track and on the west by the train line of the Union Pacific Railroad:					
Carpenters	$ 10.46	.55	.90	$1.00	.10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	10.61	.55	.90	1.00	.10
Piledrivermen	10.66	.55	.90	1.00	.10
Millwrights	11.06	.55	.90	1.00	.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities described above:					
Carpenters	10.96	.55	.90	1.00	.10
Floor layers; Patent Scaffold Erectors; Power Saw Operators	11.11	.55	.90	1.00	.10
Piledrivermen	11.16	.55	.90	1.00	.10
Millwrights	11.56	.55	.90	1.00	.10

CARPENTERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 3: Area over 20 miles and not more than 40 miles from the communities described in Zone 1:					
Carpenters	$ 11.21	.55	.90	1.00	.10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	11.36	.55	.90	1.00	.10
Piledrivermen	11.41	.55	.90	1.00	.10
Millwrights	11.81	.55	.90	1.00	.10
Zone 4: Area over 40 miles from the communities described in Zone 1:					
Carpenters	12.46	.55	.90	1.00	.10
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	12.61	.55	.90	1.00	.10
Piledrivermen	12.66	.55	.90	1.00	.10
Millwrights	13.06	.55	.90	1.00	.10
Nye County (north of Hwy. #6, excluding City of Tonopah) and all Remaining Counties:					
Zone 1: Area within 5 road miles of the following communities - Carson City, Elko, Ely, Fallon, Hawthorne, Lovelock, Minden, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base:					
Carpenters	9.55	.65	1.01	1.00	.05
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	9.70	.65	1.01	1.00	.05
Piledrivermen	9.75	.65	1.01	1.00	.05
Millwrights	10.15	.65	1.01	1.00	.05

CARPENTERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities in Zone 1:					
Carpenters	$ 10.15	.65	$ 1.01	$1.00	.05
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	10.30	.65	1.01	1.00	.05
Piledrivermen	10.35	.65	1.01	1.00	.05
Millwrights	10.75	.65	1.01	1.00	.05
Zone 3: Area over 20 and not more than 40 road miles from the communities in Zone 1:					
Carpenters	10.35	.65	1.01	1.00	.05
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	10.50	.65	1.01	1.00	.05
Piledrivermen	10.55	.65	1.01	1.00	.05
Millwrights	10.95	.65	1.01	1.00	.05
Zone 4: Area over 40 road miles from the communities in Zone 1:					
Carpenters	11.05	.65	1.01	1.00	.05
Floor Layers; Patent Scaffold Erectors; Power Saw Operators	11.20	.65	1.01	1.00	.05
Piledrivermen	11.25	.65	1.01	1.00	.05
Millwrights	11.65	.65	1.01	1.00	.05
CEMENT MASONS:					
Clark, Lincoln, Nye Counties:					
Cement Masons	8.90	1.00	.40	2.00	.08
Cement Floor Finishing Machine and Color Work	9.15	1.00	.40	2.00	.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (Cont'd)					
Lake Tahoe Area:					
Cement Masons	$ 10.60	.65	.75	$1.00	.03
Mastic, Magnesite and all Composition Masons	10.85	.65	.75	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	11.10	.65	.75	1.00	.03
Remaining Counties:					
Zone 1: Area within a 15 mile radius of the Main Post Office, Reno, Nevada, or within a 15 mile radius of the employee's permanent residence in the State of Nevada; also area within a 7 mile radius of the Main Post Office, Carson City, Nevada:					
Cement Masons	9.15	.65	.75	1.00	.03
Mastic, Magnesite and all Composition Masons	9.40	.65	.75	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	9.65	.65	.75	1.00	.03
Zone 2 - Highway Construction:					
Area outside of Zone 1:					
Cement Masons	10.40	.65	.75	1.00	.03
Mastic, Magnesite and all Composition Masons	10.65	.65	.75	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	10.90	.65	.75	1.00	.03
Zone 2 - Nonhighway Construction:					
2-A: Area over 15 but not over 50 miles to the center of the jobsite:					
Cement Masons	9.90	.65	.75	1.00	.03
Mastic, Magnesite and all Composition Masons	10.15	.65	.75	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	10.40	.65	.75	1.00	.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (Cont'd)					
2-B: Area over 50 miles to the center of the jobsite:					
Cement Masons	$ 11.15	.65	.75	$1.00	.03
Mastic, Magnesite and all Composition Masons	11.40	.65	.75	1.00	.03
Troweling Machine; Grinder Operator and Kelly Float	11.65	.65	.75	1.00	.03
DRYWALL INSTALLERS:					
Statewide except the Counties of Clark, Esmeralda County (South of Hwy. #6), Lincoln, Nye County (south of Hwy. #6):					
Zone 1: Area within 5 road miles of the following communities: Carson City, Elko, Ely, Fallon, Hawthorne, Lovelock, Minden, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base:	9.80	.65	1.01	1.00	.05
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities in Zone 1	10.40	.65	1.01	1.00	.05
Zone 3: Area over 20 and not more than 40 road miles from the communities in Zone 1	10.60	.65	1.01	1.00	.05
Zone 4: Area over 40 road miles from the communities in Zone 1	11.30	.65	1.01	1.00	.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Clark, Lincoln, Nye County (South of Mt. Diablo Base Line):					
Electricians; Technicians	$ 13.81	.73	1%+.40		.08
Cable Splicers	14.14	.73	1%+.40		.08
Nye County (north of Mt. Diablo Base Line) and Remaining Counties excluding Lake Tahoe Area:					
Electricians; Technicians	12.33	.67	1%+.77		.08
Cable Splicers	13.56	.67	1%+.77		.08
Lake Tahoe Area:					
Electricians; Technicians	13.33	.67	1%+.77		.08
Cable Splicers	14.56	.67	1%+.77		.08
ELEVATOR CONSTRUCTORS:					
Nevada west of 118° longitude	13.49	.545	.35	3%+a	.02
Nevada east of 118° longitude and south of 39° North latitude	12.95	.545	.35	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
Clark, Esmeralda, Lincoln, Nye Counties	12.63	.35	.40		.05
Remaining Counties	10.495	.43	1.20	.84+.43	
IRONWORKERS:					
Elko, Eureka, White Pine Counties:					
Fence Erectors; Machinery Movers; Ornamental; Reinforcing; Riggers; Structural	10.10	.55	1.00		.04
Remaining Counties:					
Fence Erector	10.41	1.14	1.86	1.20	.04
Ornamental; Reinforcing; Structural	11.30	1.14	1.86	1.20	.04
LATHERS:					
Clark, Esmeralda, Lincoln, Nye Counties	9.30	.50	1.00	1.00	.06
Remaining Counties	10.86	.56	.20		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WORKERS:					
Clark, Lincoln, Nye County (South half)					
Line Equipment Operator	$ 13.73	.73	1%		.35
Cable Splicers	5%overtJr	.73	1%		.35
Lake Tahoe Area:					
Lineman	13.33	.67	1%+.77		.08
Line Equipment Operator	12.10	.67	1%+.77		.08
Groundman	10.25	.67	1%+.77		.08
Cable Splicer	14.56	.67	1%+.77		.08
Remaining Counties (excluding Lake Tahoe Area):					
Lineman	12.33	.67	1%+.77		.08
Line Equipment Operator	11.10	.67	1%+.77		.08
Groundman	9.25	.67	1%+.77		.08
Cable Splicers	13.56	.67	1%+.77		.08
MARBLE MASONS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	11.37	.70	.60		.06
PAINTERS:					
Clark, Esmeralda, Lincoln, Nye Counties					
Brush; Roller	11.55	.75	.35		.06
Paperhangers; Spray; Steel; Swing Stage; Sandblasters; Sign; Tapers	11.90	.75	.35		.06
Buffing Steel; Sandblasters; Structural Steel	12.35	.75	.35		.06
Steeplejack	13.15	.75	.35		.06
Remaining Counties including Lake Tahoe Area:					
Brush	10.95	.70	.75		
Paperhangers; Spray; Structural Steel; Swing Stage; Sandblaster; Tapers	11.20	.70	.75		
PLASTERERS:					
Clark, Lincoln, Nye Counties	9.98	1.00	.40	1.20	.08
Remaining Counties	10.52	.65	1.00		.03
PLASTERER TENDERS:					
Statewide except Clark, Esmeralda, Lincoln, Nye County (South of Hwy. #6)					
Plasterer Tenders serving Plasterers	10.05	.50	.90		
Plasterer Tenders working on any type of gun	10.65	.50	.90		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS; Steamfitters:					
Clark, Esmeralda, Lincoln, Nye County (south half)	$ 11.05	$ 1.05	$ 1.90	$1.85	.08
Remaining Counties and Nye County (north half)	10.84	.73	.80	1.95	.10
PLUMBERS (Utility):					
Statewide except Clark, Esmeralda, Lincoln, Nye County (south half)	10.84	.73	.80	1.95	.10
ROOFERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	12.75	.65			
Remaining Counties and Nye County (north half)	9.75	.50	.35		.02
SHEET METAL WORKERS:					
Clark, Esmeralda, Lincoln, Nye County (South half), White Pine Counties	11.43	.93	1.60	1.00	.07
Remaining Counties and Nye County (north half)	9.80	.94	1.83	.98	.05
SOFT FLOOR LAYERS:					
Clark, Esmeralda, Lincoln, Nye Counties	12.52	.40			.15
Remaining Counties including Lake Tahoe Area	10.80	.70	.20	2.4%	
SPRINKLER FITTERS	14.80	.60	.90		.08
TERRAZZO WORKERS; TILE SETTERS:					
Clark, Esmeralda, Lincoln, Nye County (south half)	11.37	.70	.60		.06
Remaining Counties and Nye County (north half):					
Zone 1: 0-35 miles from Courthouse in Reno, Nevada	11.00	.50	.60		.01
Zone 2: 35-75 miles from Courthouse in Reno, Nevada	11.90	.50	.60		.01
Zone 3: 75 miles and over from Courthouse in Reno, Nevada	11.00	.50	.60		.01

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 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.
LABORERS:					
Clark, Esmeralda, Lincoln, Nye Counties:					
Group 1	$ 7.63	.51	$ 1.25	$1.00	
Group 2	7.68	.51	1.25	1.00	
Group 3	7.71	.51	1.25	1.00	
Group 4	7.73	.51	1.25	1.00	
Group 5	7.75	.51	1.25	1.00	
Group 6	7.76	.51	1.25	1.00	
Group 7	7.78	.51	1.25	1.00	
Group 8	7.81	.51	1.25	1.00	
Group 9	7.82	.51	1.25	1.00	
Group 10	7.84	.51	1.25	1.00	
Group 11	7.89	.51	1.25	1.00	
Group 12	7.92	.51	1.25	1.00	
Group 13	7.94	.51	1.25	1.00	
Group 14	7.97	.51	1.25	1.00	
Group 15	7.99	.51	1.25	1.00	
Group 16	8.055	.51	1.25	1.00	
Group 17	8.08	.51	1.25	1.00	
Group 18	8.15	.51	1.25	1.00	

LABORERS
Clark Esmeralda, Lincoln, Nye Counties

Group 1: Debris Handler; Dry packing of concrete and filling of form-bolt holes; Dumpman; Gas and oil pipeline laborers; Demolition Laborers; General or construction Laborers; Spotter; Window Cleaner

Group 2: Cutting Torch Operator (demolition); Tarman and Motorman

Group 3: Guinea Chaser

Group 4: Fine Grader, highway and street paving, airport, runways and similar type heavy construction; Landscape gardener and nursery-man

Group 5: Laborers - packing rod steel and pans

Group 6: Underground Laborer including caisson bellowers

Group 7: Chucktender (except tunnels); Scaler; Septic tank digger and installer (lead man); Tank scaler and cleaner

Group 8: Cesspool digger and installer

Group 9: Concrete curer-impervious membrane and oiler of all materials; Making and caulking of all non-metallic pipe joints; Riprap stonepaver; Sandblaster (pot tender)

LABORERS (Cont'd)
Clark, Esmeralda, Lincoln, Nye Counties

Group 10: Asphalt Ironer, raker, spreader; Buggymobile; Cement dumper (on 1 yard or larger mixers and handling bulk concrete); Cement grinding machine operator; Concrete core cutter; Concrete saw man, excluding tractor type; Gas and oil pipeline wrapper, pot tender and form man; Tree climber, faller, chain saw operator; Pittsburgh Chipper and similar type; Vibrators and all pneumatic, gas, electric and similar mechanical tools not separately classified herein; Roto Scraper

Group 11: Rock Slinger; Scaler, using bosun chair, safety belt or power tools

Group 12: Driller and/or pavement breaker

Group 13: Laying of all non-metallic pipe (including sewer pipe, drain pipe and underground tile)

Group 14: Gas and oil pipeline wrapper - 6 inch pipe and over

Group 15: Cribber or Shorer; Powderman

Group 16: Steel Headerboard Man

Group 17: Driller (core, diamond or wagon) Joy Driller Model TW-M-2A, Gardner-Denver Model DH-163 and similar drills; Sandblaster - Nozzleman

Group 18: Head Rock Slinger

LABORERS*:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remaining Counties:					
Building Construction:					
Zone 1: Area within 5 road miles of the following communites - Carson City, Elko, Fallon, Hawthorne, Lovelock, Minden, Tonopah, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base; also the Tahoe Basin from the Summit to the Lake:					
Group 1	$ 8.00	.50	.90		.10
Group 2	8.10	.50	.90		.10
Group 3	8.25	.50	.90		.10
Group 4	8.50	.50	.90		.10
Group 5	8.80	.50	.90		.10
Group 6-A	8.80	.50	.90		.10
Group 6-B	8.50	.50	.90		.10
Group 6-C	8.15	.50	.90		.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Group 1	8.60	.50	.90		.10
Group 2	8.70	.50	.90		.10
Group 3	8.85	.50	.90		.10
Group 4	9.10	.50	.90		.10
Group 5	9.40	.50	.90		.10
Group 6-A	9.40	.50	.90		.10
Group 6-B	9.10	.50	.90		.10
Group 6-C	8.75	.50	.90		.10

LABORERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Remaining Counties (Cont'd)					
Building Construction (Cont'd)					
Zone 3: Area over 20 and not more than 40 road miles from the communities named in Zone 1:					
Group 1	$ 8.80	.50	.90		.10
Group 2	8.90	.50	.90		.10
Group 3	9.05	.50	.90		.10
Group 4	9.30	.50	.90		.10
Group 5	9.60	.50	.90		.10
Group 6-A	9.60	.50	.90		.10
Group 6-B	9.30	.50	.90		.10
Group 6-C	8.95	.50	.90		.10
Zone 4: Area over 40 road miles from the communties named in Zone 1:					
Group 1	9.50	.50	.90		.10
Group 2	9.60	.50	.90		.10
Group 3	9.75	.50	.90		.10
Group 4	10.00	.50	.90		.10
Group 5	10.30	.50	.90		.10
Group 6-A	10.30	.50	.90		.10
Group 6-B	10.00	.50	.90		.10
Group 6-C	9.65	.50	.90		.10
Heavy and Highway Construction:					
Area 1:					
Group 1	8.00	.50	.90		.10
Group 2	8.10	.50	.90		.10
Group 3	8.25	.50	.90		.10
Group 4	8.50	.50	.90		.10
Group 5	8.80	.50	.90		.10
Group 6-A	8.80	.50	.90		.10
Group 6-B	8.50	.50	.90		.10
Group 6-C	8.15	.50	.90		.10
Area 2:					
Group 1	9.15	.50	.90		.10
Group 2	9.25	.50	.90		.10
Group 3	9.40	.50	.90		.10
Group 4	9.65	.50	.90		.10
Group 5	9.95	.50	.90		.10
Group 6-A	9.95	.50	.90		.10
Group 6-B	9.65	.50	.90		.10
Group 6-C	9.30	.50	.90		.10

*LABORERS - Area Definition - See "Area Definition" following TRUCK DRIVERS

LABORERS (Cont'd)
Remaining Counties

Group 1: All cleanup work of debris, grounds and building including windows and tile; Dumpman or spotter (other than asphalt); General laborer; Gardeners and landscape laborers; Limber, brushloader and piler

Group 2: Choker setter or rigger (clearing work only); Pittsburgh chipper and similar type brush shredders; Concrete worker (wet or dry) all concrete work not listed in Group 3; Crusher or Grizzly tender; Guinea chaser (stakeman); Panel forms (wood or metal) handling, cleaning and stripping of; Loading and unloading, carrying and handling of all rods and material for reinforcing concrete; Railroad trackmen (builders); Sloper; Semi-skilled wrecker (salvaging of building materials other than those listed in Group 3); Greasing Dowels

Group 3: Asphalt workers (ironers, shoveler, cutting machine); Buggymobile; Chainsaw, faller, logloader and bucker; Compactor (all types); Concrete mixer under 1/2 yd.; Concrete pan work (breadpan type), (handling, cleaning, stripping); Concrete saw, chipping, grinding, sanding, vibrator; Cribbing, shoring, lagging, trench jacking, hand-guided lagging hammer; Curbing or divider machine; Curb setter (precast or cut); Ditching machine (hand-guided); Drillers' helper, chuck tender; Form raiser, slip forms; Grouting of concrete walls, windows and door jams; Headerboardman; Jackhammer, pavement breaker, air spade; Mastic worker (wet or dry); Pipe wrapper, kettleman, potman, and men applying asphalt, creosote and similar type materials; All power tools (air, gas or electric) not listed in Group 5; Pipejacking; Posthole digger (air, gas or electric), Post driver; Riprap-stonepaver and rock slinger, including placing of sack concrete wet or dry; Rototiller; Rigging and signaling in connection with laborers' work; Sandblaster, potman, gunman or nozzleman; Vibra-screed; Skilled wrecker (removing and salvaging of sash, windows, doors, plumbing and electrical fixtures)

Group 4: Burning and welding in connection with laborers' work; Joy Drill Model TWM-2A, Gardner Denver Model DN 143 and similar type drills; Track drillers, Diamond core drillers, Wagon drillers, Mechanical drillers on multiple units; High scalers; Concrete pump; Heavy duty vibrator with stinger 5" diameter or over; Pipelayer, caulker and bander; Pipelayer - waterline, sewerline, gasline, conduit; Asphalt rakers

Group 5: Blasters and powderman, all work of loading, placing and blasting of all powder and explosives of any type, regardless of method used for such loading and placing

Group 6-A: Nozzleman

Group 6-B: Gunman, Materialman

Group 7: Reboundman

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection) Clark, Esmeralda, Lincoln, Nye Counties:					
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

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)
Clark, Esmeralda, Lincoln, Nye Counties

Group 1: Brakeman; Compressor Operator; Engineer Oiler; Generator operator; Heavy duty repairman helper; Pump; Signalman; Switchman

Group 2: Concrete Mixer Operator, Skip Type; Conveyor Operator; Fireman; Generator, Pump or Compressor (2-5 inclusive); Generator, Pump or Compressor Portable Units (over 5 units, 10¢ per hour for each additional unit up to nine units); Hydrostatic Pump; Oiler Crusher (Asphalt or Concrete Plant); Plant Operator, Generator, Pump or Compressor; Skiploader - Wheel type up to 3/4 yd. w/o attachment; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Truck Crane Oiler; Rotary Drill Helper (oilfield)

Group 3: A-Frame or Winch Truck; Elevator operator (inside); Equipment greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter radioman (ground); Power concrete curing machine; Power concrete saw; Power driven jumbo form setter; Ross carrier; Stationary pipe wrapping and cleaning machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (Asphalt or Concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge Type Unloader and Turntable; Dinkey Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (grease truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-Hammer - Aero Stomper; Power sweeper; Roller (compacting); Screed (Asphalt or Concrete); Trenching Machine (up to 6 ft.)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Clark, Esmeralda, Lincoln, Nye Counties)

Group 5: Asphalt Plant Engineer; Concrete Batch Plant; Backhoe (up to and including 3/4 yds.); Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Forklift (under 5 ton capacity); Machine Tool; Maginnis Internal Full Slab Vibrator; Mechanical Berm (curb or gutter concrete or asphalt); Mechanical Finisher (concrete-Clary-Johnson-Bidwell or similar); Pavement Breaker; Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth Moving Equipment, (single engine, up to and including 25 yards struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Tugger Hoist (1 drum); Tunnel Locomotive (over 10 and up to and including 30 tons); Stinger Crane (Austin-Western or similar type); Skiploader Crawler and Wheel type over 3/4 yards and up to and including 1½ yards); Tractor-Bulldozer, Tamper, Scraper (single engine, up to 100 HP, Flywheel and similar types, up to and including D-5 and similar types)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); BEL Lima Road Pactor or similar; Bridge Crane; Pipe Laying Machine (cast in place); Combination Mixer and Compressor (gunite work); Concrete Pump (truck mounted); Concrete Mixer; Crane (up to and including 25 tons); Crushing Plant; Elevating Grader; Forklift (over 5 tons); Grade Checker; Gradeall; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Slab Machine (Vagtborg and similar types); Lift Mobile; Loader-Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine 1/4 yd. - rubber-tired, rail or track type); Pneumatic Concrete Placing Machine (Backley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding caisson type); Rubber-tired Earth Moving Equipment Operator (single engine - Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yards and up to and including 50 cubic yards struck); Rubber-tired Scraper (self-loading - Paddle wheel type - John Deere, 1040 and similar single unit); Skiploader (Crawler and Wheel type - over 1½ yards, up to and including 6½ yards); Surface Heaters and Planers; Rubber-tired Earth Moving Equipment, multiple engine (up to and including 25 yards, struck); Trenching Machine (over 6 feet depth capacity, manufacturers rating); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger D-5 - 100 Flywheel HP and over or similar) (Bulldozer, Tamper, Scraper and Push Tractor single engine); Tractor (Boom attachments); Traveling Pipe Wrapping, Cleaning and Bending; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yard and up to 5 cubic yards, M.R.C.)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Clark, Esmeralda, Lincoln, Nye Counties

Group 7: Crane (over 25 tons up to and including 100 tons M.R.C.); Derrick Barge, Dual Drum Mixer; Hoist, Stiff Legs, Guy Derrick, or similar type, up to and including 100 tons; Monorail Locomotive (Diesel, gas or electric); Motor Patrol - Blade Operator (single engine); Multiple Engine Tractor Operator (Euclid and similar type except Quad 9 Cat); Rubber-tired Earth Moving Equipment (single engine over 50 yards struck); Rubber-tired Earth Moving Equipment (Multiple engine, Euclid, Caterpillar and similar) (over 25 yards and up to 50 cubic yards struck); Tractor Loader Operator (Crawler and wheel type over 6½ yards); Tower Crane Repairman; Shovel, Backhoe, Dragline, Clamshell Operator (over 5 cubic yards, MRC); Woods Mixer and similar Pugmill Equipment; Heavy Duty Repairman - Welder Combination

Group 8: Auto Grader; Automatic Slip Form; Crane (Over 100 tons); Hoist Stiff Legs, Guy Derricks or similar types (capable of hoisting 100 tons or more); Mass Excavator (less than 750 cubic yards); Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol (multi engine); Pipe Mobile Machine; Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpillar and similar type over 50 cubic yards struck); Rubber-tired Self Loading Scraper (Paddle Wheel - Auger type self-loading (2 or more units); Tandem Equipment (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine; Rubber-tired Scraper (pushing without Push Cat, Push-Pull (50¢ per hour additional)

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Wheel Excavator (over 750 cubic yards); Remote Controlled Earth Moving Equipment ($1.00 per hour additional to base rate)

	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS* (Except Piledriving and Steel Erection)	AREA 1	AREA 2				
Remaining Counties:						
Group 1	$ 8.75	$ 9.90	$ 1.12	$ 2.23	.92	.20
Group 2	9.12	10.27	1.12	2.23	.92	.20
Group 3	9.32	10.47	1.12	2.23	.92	.20
Group 4	9.84	10.99	1.12	2.23	.92	.20
Group 5	10.05	11.20	1.12	2.23	.92	.20
Group 6	10.17	11.32	1.12	2.23	.92	.20
Group 7	10.34	11.49	1.12	2.23	.92	.20
Group 8	10.72	11.87	1.12	2.23	.92	.20
Group 9	10.94	12.09	1.12	2.23	.92	.20
Group 10	11.17	12.32	1.12	2.23	.92	.20
Group 10-A	11.29	12.44	1.12	2.23	.92	.20
Group 11	11.46	12.61	1.12	2.23	.92	.20
Group 11-A	12.54	13.69	1.12	2.23	.92	.20

*POWER EQUIPMENT OPERATORS - Area Definition - See "Area Definition" following TRUCK DRIVERS.

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 1: Assistant to Engineer, including brakeman, deckhand, fireman, heavy duty repairman helper, oiler, partsman (heavy duty repair shops parts room when needed), Switchman, tar pot fireman

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pump; Tar Pot Fireman (power agitated)

Group 3: Box Operator (bunker); Concrete Curing Machine (streets, highways, airports, canals); Conveyor Belt (tunnel); Engineer Generating Plant (500 K.W.); Fireman Hot Plant; Hydraulic Monitor; Lubrication and Service Engineer (mobile and grease rack); Mixer Box Operator (concrete plant); Motorman; Rotomist; Screedman (except asphaltic or concrete paving); Oiler (truck crane)

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper multiple-purpose; Boxman (asphalt plant); Concrete Mixer, skip type; Dinky; Fork Lift (construction job site); Ross Carrier; Skip Loader (under 1 cu. yd.); Tie Spacer; Line Master

Group 5: Concrete Mixer (over 1 cu. yd.); Concrete Pumps or Pumpcrete Guns; Elevator and Material Hoist (1 drum); Screedman (Barber-Greene and similar) (asphaltic or concrete paving); Shuttle Car; Signalman

Group 6: Boom Truck or Dual Purpose "A" Frame Truck; B.L.H. Lima Road Pactor or similar; Chip Box Spreader (Flaherty type or similar); Concrete Batch Plant (wet or dry); Concrete Saws (highways, streets, airports, canals); Highline Cableway Signalman; Locomotive (over 30 tons); Maginnis International Full Slab Vibrator (airports, highways, canals, warehouses); Mechanical Burn, curb and/or curb gutter machine (concrete or asphalt); Power Jumbo (setting slip forms, etc., in tunnels); Roller (except asphalt); Self-propelled Compactor (single engine); Slip Form Pump (power driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Stationary Pipe Wrapping, Cleaning and Bending Machine; Pavement Breaker or Tamper (with or without compressor combination); Pavement Breaker, truck mounted, with compressor combination; Small rubber-tired Tractors; Self-propelled Tape Machine

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 7: Compressor (over 2); Concrete Conveyor; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Crusher Plant Engineer; Deck Engineer; Drilling and Boring Machinery, vertical and horizontal (not to apply to water-liners, wagon drills or jackhammers); Generators; Grade Setters; Grade Checker; Kolman Loader; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Pipe Bending Machines (pipelines only); Pipe Cleaning Machines (tractor propelled and supported); Pipe Wrapping Machines (tractor propelled and supported); Portable Crushing and Screening Plants; Pumps (over 2); Refrigeration Plants; Self-propelled Boom type Lifting Device (center mount) (10 ton capacity or less); Slusher; Soil Tester (certified); Surface Heater and Planer; Trenching Machine (maximum digging capacity 3 ft. depth); Truck type Loader; Welding Machines (gasoline or diesel); Roller (asphalt)

Group 8: Asphalt Plant Engineer; Car Passer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor; Dozer; Concrete Batch Plant (multiple units); Elevating Grader; Grooving and Grinding Machine (highways); Heavy-duty Repairman and/or Welder; Ken-Seal; Loader (up to and including 2½ cu. yds.); Mechanical Trench Shield; Mixermobile; Push Cats; Road Oil Mixing Machine; Wood-mixer (and other similar pugmill equipment); Rubber-tired Earthmoving Equipment (up to and including 35 cu. yds. "struck" m.r.c., Euclids, T-Pulls, DW's 10, 20, 21 and similar); Self-propelled Compactor with dozer; Sheepfoot; Small Tractor (with boom); Soil Stabilizer (P & H or equal); Timber Skidder (rubber tire) or similar equipment; Tractor; Tractor drawn Scraper; Tractor mounted compressor drill combination; Trenching Machine (over 3 ft. depth); Tri-batch Paver; Tunnel Badger or Tunnel Boring Machine; Tunnel Mole Boring Machine

Group 9: Canal Finger Drain Digger; Chicago Boom; Combination Backhoe and Loader (up to and including 3/8 yds.); Combination Mixer and Compressor (gunite); Lull Hi-Lift (20 ft. or over); Mucking Machine; Tractor with boom (D6 or larger); Track Laying type Earth Moving Machine (single engine with tandem scrapers); Sub-grader (Gurries or other types)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)
Remaining Counties

Group 10: Boom type Backfilling Machine; Bridge Crane; Cary-lift or similar; Chemical Grouting Machine; Derricks; Derrick Barges (except excavation work); Euclid Loader and similar types; Heavy Duty Rotary Drill Rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu. yds. up to and including 4 cu. yds.); Locomotive (over 100 tons) (single or multiple units); Multiple engine earth moving machines (Euclid, dozers, etc.); Pre-stress Wire-wrapping Machine; Rubber-tired Scraper, self-loading; Self-propelled Reservoir-debris equipment floating (200 HP and over); Shuttle Car (reclaim station); Single engine Scraper (over 35 cu. yds.); Train loading station; Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons); Trenching Machine; Multi-engine with Sloping attachments (JEFFCO or similar)

Group 10-A: Backhoe (up to and including 1 cu. yd. hydraulic); Backhoe (up to and including 1 cu. yd. cable); Cranes (not over 25 tons) (Hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Motor Patrol; Power Shovels, Clamshells, Draglines, Cranes (up to and including 1 cu. yd.); Rubber-tired Scraper, Self-loading (twin engine); Self-propelled Boom-type Lifting Device (center mount) (over 10 tons)

Group 11: Automatic Asphalt or Concrete Slip Form Paver; Automatic Railroad Car Dumper; Canal Finger Drain Backfiller; Canal Trimmer; Cranes (over 25 tons); Highline Cableway Operator; Loader (over 4 yds. up to and including 12 cu. yds.); Multi-engine Earthmoving Equipment (up to and including 75 cu. yds. "struck" M.R.C.); Power Shovels, Clamshells, Draglines, Backhoes, Grade-alls (over 1 yd. and up to and including 7 cu. yds. M.R.C.); Self-propelled Compactor (with multiple propulsion power units); Single engine rubber-tired earth-moving machine (with tandem scraper); Slip Form Paver (concrete or asphalt); Tandem Cats and Scrapers; Tower Crane Mobile; Universal Liebher and Tower Cranes (and similar types); Wheel Excavator (up to and including 750 cu. yds. per hour); Whirley Cranes (over 25 tons)

Group 11-A: Band Wagons (in conjunction with wheel excavators); Loader (over 12 cu. yds.); Multi-engine Earth Moving Equipment (over 75 cu. yds. "struck" M.R.C.); Operator of Helicopter (when used in construction work); Power Shovels and Draglines (over 7 cu. yds. M.R.C.); Remote controlled Earth Moving Equipment; Wheel Excavator (over 750 cu. yds. per hour)

POWER EQUIPMENT OPERATORS: STEEL ERECTION Remaining Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.22	$1.12	$2.23	.92	.20
Group 2	9.61	1.12	2.23	.92	.20
Group 3	10.61	1.12	2.23	.92	.20
Group 4	10.75	1.12	2.23	.92	.20
Group 4-A	11.04	1.12	2.23	.92	.20
Group 5	11.52	1.12	2.23	.92	.20
Group 6	11.93	1.12	2.23	.92	.20
Group 6-A	12.50	1.12	2.23	.92	.20
Group 7	13.48	1.12	2.23	.92	.20

POWER EQUIPMENT OPERATORS (Cont'd)
STEEL ERECTION
Remaining Counties

Group 1: Oiler

Group 2: Compressor Operator; Generator, gasoline or diesel-driven (100 K.W. or over); Truck Crane Oiler

Group 3: Compressors, Generators and/or Welding Machines or combination (2 to 6) (Structural Steel or Tank Erection only)

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy-duty Repairman-welder

Group 5: Boom Truck or Dual purpose A-Frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 tons m.r.c. or less); Self-propelled boom-type lifting device (center mount) (10 ton capacity or less m.r.c.); Single Drum Hoist; Tugger Hoist

Group 6: Crawler Cranes and Truck Cranes (over 15 tons m.r.c); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Self-propelled boom-type lifting device (center mount) (over 10 tons); Tower Cranes Mobile; Universal Liebher and Tower Cranes (and similar types); Two or more drum hoist

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of Helicopter

POWER EQUIPMENT OPERATORS:
PILEDRIVING
Remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 8.78	$1.12	$2.23	.92	.20
Group 1-A	9.11	1.12	2.23	.92	.20
Group 1-B	9.26	1.12	2.23	.92	.20
Group 2-A	9.89	1.12	2.23	.92	.20
Group 2-B	10.10	1.12	2.23	.92	.20
Group 3	10.40	1.12	2.23	.92	.20
Group 3-A	10.79	1.12	2.23	.92	.20
Group 4	11.34	1.12	2.23	.92	.20
Group 5	11.48	1.12	2.23	.92	.20
Group 6	12.50	1.12	2.23	.92	.20

POWER EQUIPMENT OPERATORS (Cont'd)
PILEDRIVING
Remaining Counties

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Compressor Operator (over 2); Generator Operator; Pump Operator (over 2); Welding Machine Operator (powered other than by electricity)

Group 3: Deck Engineer; Fork Lift Operator; A-Frames; Self-propelled boom-type lifting device (center mount) (10 ton capacity or less m.r.c.)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending boiler or compressor attached to Crane Piledriver; Operator of pile-driving rigs, skid or floating and derrick barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) (up to and including 1 cu. yd. rating); Self-propelled boom-type lifting device (center mount) (over 10 tons); Truck Crane Operator (up to and including 25 tons)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) (over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered Crawler, or Universal type Driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing pile-driving work)

Group 6: Cranes (over 125 tons)

TRUCK DRIVERS
Clark, Esmeralda, Lincoln, Nye Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.35	.40	.65		
Group 2	9.46	.40	.65		
Group 3	9.51	.40	.65		
Group 4	9.67	.40	.65		
Group 5	9.85	.40	.65		
Group 6	10.35	.40	.65		

TRUCK DRIVERS
Clark, Esmeralda, Lincoln, Nye Counties

Group 1: Dump Trucks (less than 12 yds.); Trucks (legal payload capacity less than 15 tons); Water and Fuel Trucks (under 2500 gals.); Pickups; Service; Repairman Helper; Drivers of busses (on jobsite used for transportation of up to 25 passengers); Teamster Equipment (highest rate for dual craft operation)

Group 2: Dump Trucks (12 yds. but less than 16 yds.); Trucks (legal payload capacity between 15 and 20 tons); Water and Fuel Trucks (2500 to 4000 gals.); Truck Driver working on gas and oil pipeline (including Winch truck and all sizes of trucks); Truck Greaser and Tireman; Drivers of busses (on jobsite used for transportation of more than 25 passengers); Bootman

Group 3: Dumpcrete (less than 6½ yds.); Transit-mix (less than 3 yds.); Warehouse Clerk

Group 4: Dump Trucks (16 yds. up to and including 22 yds.); Trucks (legal payload capacity 20 tons but less than 30 tons); Water and Fuel Trucks (4000 gals. but less than 6000 gals.); Dumpcrete (6½ yds. and over); Transit-mix (3 yds. but less than 6 yds.); Euclid-type Spreader Trucks; Dumpster; Fork Lift; Ross Carrier - highway; Road Oil Spreading Truck, time spent spreading oil

Group 5: Dump Trucks (over 22 yds.); Trucks (legal payload capacity 20 tons and over); Water and Fuel Trucks (6000 gals. and over); Transit-mix (6 yds. and over); Truck Repairman

Group 6: D.W. and similar-type equipment, D.W. 10 and D.W. 20; Euclid-type equipment, LeTourneau Pulls, Terra Cobras and similar types of equipment; also FB and similar-type trucks when performing work within Teamster jurisdiction, regardless of types of attachment including power units pulling off Highway Belly Dumps in tandem

TRUCK DRIVERS* Remaining Counties	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP (single or multiple units including semi, double and transfer units; Dumpcrete and bulk cement spreaders:						
Under 4 yards	$ 9.20	$ 10.35	.51	.65		.05
4 yds. and under 8 yds.	9.40	10.55	.51	.65		.05
8 yds. and under 18 yds.	9.60	10.75	.51	.65		.05
18 yds. and under 35 yd.	9.75	10.90	.51	.65		.05
35 yds. and under 60 yds.	10.00	11.15	.51	.65		.05
60 yds. and under 75 yds.	10.15	11.30	.51	.65		.05
75 yds. and under 100 yds.	10.30	11.45	.51	.65		.05
100 yards and over	10.45	11.60	.51	.65		.05
TRANSIT MIX:						
Under 8 yards	9.60	10.75	.51	.65		.05
8 yards and including 12 yards	9.70	10.85	.51	.65		.05
Over 12 yards	9.90	11.05	.51	.65		.05
WATER TRUCKS and Jetting Trucks:						
Up to 2,500 gallons	9.40	10.55	.51	.65		.05
2,500 gallons and over	9.60	10.75	.51	.65		.05
DW 20 and 21 and other similar Cat type, Terra Cobra, LeTourneau Pulls, Tournarocker, Euclid and similar type equipment when pulling Aqua/Pak; Water tank trailers, fuel and/or grease tank or other misc. trailers (except as defined under dump trucks)	9.85	11.00	.51	.65		.05

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appt. Tr.
FLATRACK; Industrial Lift with Mechanical Tailgate:						
Single unit 2 axle	$ 9.40	$ 10.55	.51	.65		.05
Single unit 3 axle	9.50	10.65	.51	.65		.05
BUS AND MANHAUL DRIVERS, Single Unit; Pickup:						
Up to 18,000 pounds	9.25	10.40	.51	.65		.05
18,000 pounds and over	9.35	10.50	.51	.65		.05
WINCH TRUCK, A-FRAME:						
Under 18,000 pounds	9.35	10.50	.51	.65		.05
18,000 pounds and over	9.45	10.60	.51	.65		.05
HEAVY DUTY TRANSPORT (High-bed); Heavy Duty Transport (gooseneck lowbed); Tiltbed or flatbed pull trailers	9.75	10.90	.51	.65		.05
BOOTMAN, Combination; Bootman and road oiler	9.65	10.80	.51	.65		.05
ROAD OIL TRUCK OR BOOTMEN; Fuel driver; Fuel man and Fuel island man	9.35	10.50	.51	.65		.05
HELICOPTER PILOT (when transporting men or material)	10.15	11.30	.51	.65		.05
LIFT JITNEYS And FORK LIFTS	9.45	10.60	.51	.65		.05
WAREHOUSE CLERK	9.30	10.45	.51	.65		.05
TIRE REPAIRMAN	9.60	10.75	.51	.65		.05
TRUCK REPAIRMAN	9.90	11.05	.51	.65		.05

*TRUCK DRIVERS - Area Definition - See "Area Definition" following this page.

AREA DEFINITIONS
Remaining Counties
LABORERS
Heavy and Highway Construction
POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)
TRUCK DRIVERS

AREA 1: All of northern Nevada within the following lines:
Commencing at the N.W. corner of township 22N, range 18E, Mount Diablo Baseline and Meridian at the California-Nevada border;
Thence easterly to the N.E. corner to township 22N, range 22E;
Thence southerly to the N.E. corner of township 20N, range 22E;
Thence easterly to the N.W. corner of township 20N, range 26E;
Thence northerly to the N.W. corner of township 22N, range 26E;
Thence easterly to the N.W. corner of township 22N, range 29E;
Thence northerly to the N.W. corner of township 30N, range 29E;
Thence easterly to the N.E. corner of township 30N, range 33E;
Thence southerly to the S.E. corner of township 24N, range 33E;
Thence westerly to the S.E. corner of township 24N, range 31E;
Thence southerly to the S.E. corner of township 16N, range 31E;
Thence westerly to the S.E. corner of township 16N, range 30E;
Thence southerly to the S.E. corner of township 15N, range 30E;
Thence westerly to the S.E. corner of township 15N, range 27E;
Thence southerly to the S.E. corner of township 14N, range 27E;
Thence westerly to the S.E. corner of township 14N, range 23E;
Thence southerly to the S.E. corner of township 13N, range 23E;
Thence westerly to the S.E. corner of township 13N, range 22E;
Thence southerly to the N.E. corner of township 10N, range 22E;
Thence easterly to the S.E. corner of township 10N, range 23E;
Thence southerly along the easterly line of range 23E to the intersection of the California-Nevada border;
Thence north-westerly, then northerly following the California-Nevada border to the point of beginning.

Area 1 also includes that portion of northern Nevada included within the following line:
Commencing at the S.W. corner of township 37N, range 52E;
Thence easterly to the S.E. corner of township 37N, range 52E;
Thence northerly to the N.E. corner of township 37N, range 52E;
Thence easterly to the N.W. corner of township 37N, range 58E;
Thence southerly to the S.W. corner of township 37N, range 58E;
Thence easterly to the S.E. corner of township 37N, range 58E;
Thence southerly tp the N.E. corner of township 31N, range 58E;
Thence westerly to the N.W. corner of township 31N, range 58E;
Thence southerly to the S.W. corner of township 31N, range 58E;
Thence westerly to the S.E. corner of township 31N, range 52E;
Thence northerly to the N.E. corner of township 31N, range 52E;
Thence westerly to the S.E. corner of township 32N, range 51E;
Thence northerly to the point of beginning.

AREA 2: All areas not included within Area 1 as defined above.

STATE: Ohio
DECISION NUMBER: OH77-2056
COUNTIES: Mahoning & Trumbull
DATE: Date of Publication
Supersedes Decision Nos.: OH76-2085, dated July 23, 1976, in 41 FR 30557, & OH76-2092, dated August 13, 1976, in 41 FR 34528
DESCRIPTION OF WORK: Building and Residential Construction

DECISION NO. OH77-2056

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.74	.45	.70		.02
BOILERMAKERS	11.48	.60	1.00		.03
BRICKLAYERS:					
Mahoning Co. (Smith Twp.)	10.40	.70	.45		.01
Mahoning Co. (Rem. of Co.)	10.71	.60	.60		.02
Trumbull Co.	11.01	.40	.50		.02
CARPENTERS:					
Commercial Building	9.45	.87	.65		.02
Residential	9.27	1.07	.80		.02
CEMENT MASONS:					
Mahoning & Trumbull (Twps. of Hubbard & Liberty) Cos.	10.57	.50	.50		.05
Trumbull (Rem. of Co.) Co.	10.30	.40			.01
ELECTRICIANS:					
Mahoning (Milton Twp.) & Trumbull (Excluding Hubbard & Liberty Twps.) Cos.	11.76	.60	5%		.7%
Mahoning (Austintown, Beaver, Berlin, Broadman, Canfield, Ellsworth, Coitsville, Goshen, Green, Jackson, Poland, Springfield, & Youngstown Twps.) & Trumbull (Hubbard & Liberty Twps.) Cos.	11.72	.53	5%		.3%
Mahoning (Smith Twp.) Co.:					
Commercial Building	11.20	.40	1%+.25		.3%
Residential (4 units only)	7.25	.30	1%+.10		.3%
ELEVATOR CONSTRUCTORS:					
Elevator constructors	10.99	.545	.35	4%+a+b	.02
Helpers	7.69	.545	.35	4%+a+b	.02
Helpers (Prob.)	5.495				
GLAZIERS	10.37	.40	.20		
IRONWORKERS:					
Ornamental; Reinforcing; & Structural	11.08	.40	1.00		.07
Sheeters	11.58	.40	1.00		.07
Bucker-up	11.205	.40	1.00		.07
LABORERS (Mahoning Co.):					
Building & Construction	$8.95	.55	.40		.05
Jackhammer op. (all machine driven tools, electric, gas or air & gas buggies); Mortar mixers (hand or machine)	9.08	.55	.40		.05
Trenching & shaft excavations (7' or more)	9.13	.55	.40		.05
Jackhammer op. in trench & shaft excavation (7' or more)	9.07	.55	.40		.05
Power & dynamite & sewer pipelayers	9.27	.55	.40		.05
Scrap iron burning	9.05	.55	.40		.05
Gunnite scaffold man (over 25')	9.35	.55	.40		.05
Gunnite nozzlemen; Gunnite gunman	9.53	.55	.40		.05
Plasterers hod carriers	9.15	.55	.40		.05
LABORERS (Trumbull Co.):					
Laborers & Carpenters' tenders	8.09	.55	.40		.05
Burning scrap iron	8.19	.55	.40		.05
Mortar mixers; Mason tenders; Jackhammer (All mech. driven tools, under 4"); Spikers; Work 7' or more in depth; Concrete work	8.21	.55	.40		.05
Hod carrier	8.29	.55	.40		.05
Pipelayers; Muckers; Power & dynamite man; Laser beam op.	8.41	.55	.40		.05
Gunniting & sandblasting	8.49	.55	.40		.05
LEADBURNERS	10.75	.40		c	.01
LINE CONSTRUCTION:					
Linemen; Cable splicer; Operator - pole digging equipment	12.37	.45	1%		
MARBLE SETTERS; Terrazzo workers; & Tile setters:					
Mahoning Co.	11.475				
MARBLE SETTERS' HELPERS ; Terrazzo workers' helpers; & Tile setters' helpers:					
Mahoning (Excluding Smith Twp.)	10.625				
MILLWRIGHTS; Piledrivermen	10.60	1.07	.80		.02

DECISION NO. OH77-2056

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush; Dipping; Hydro jet cleaning; Paperhangers; Roller; Steamcleaning; Wall washing; & Waterproofing	$10.665	.60	.40		
Spray; Epoxy-mastic (Brush & Roller)	11.165	.60	.40		
Dry wall taping	10.815	.60	.40		
Open structural steel	10.88	.60	.40		
PLASTERERS:					
Mahoning Co.	10.88	.50			.03
Trumbull Co.	9.65	.50			.03
PLUMBERS; Steamfitters:					
Mahoning & Trumbull (Hubbard & Liberty Twps.) Cos.	11.49	.75	.50		.03
Trumbull Co.	10.75	.57	.65		.01
ROOFERS	10.48	.60	.60		.01
SHEET METAL WORKERS	11.84	.75	.79		.04
SOFT FLOOR LAYERS:					
Commercial Building	9.27	1.07	.80		.02
Residential	8.77	1.07	.80		.02
SPRINKLER FITTERS	12.05	.60	.90		.08
TERRAZZO WORKERS' HELPERS; Tile setters' helpers:					
Mahoning Co. (Smith Twp.)	8.09	.70	.45		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day

FOOTNOTES:
a. Six paid holidays: A through F
b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years, and 2% for employee in business less than 5 years.
c. Nine paid holidays: A through F, Washington's Birthday; Good Friday; & Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

DECISION NO. OH77-2056

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 11.18	.65	.80		.14
CLASS II	10.49	.65	.80		.14
CLASS III	9.91	.65	.80		.14
CLASS IV	9.50	.65	.80		.14
CLASS V	9.40	.65	.80		.14
CLASS VI	11.45	.65	.80		.14

CLASS I - Asphalt planer heater; Austin western & similar type; Backhoe; Batch plant-central mix; Batch plant-portable concrete; Berm builder-automatic; Backfiller w/drag attachment; Boat derrick; Boat-tug; Boring mach. attached to tractor; Bullclam; Bulldozer; C.M.I. road builder & similar types; Cable placer & layer; Carrier-straddle; Carryall - scraper or scoop; Chicago boom; Compactor w/blade attached; Concrete spreader finisher comb., Crane; Crane-stationary or climbing; Crane-electric overhead; Crane-side boom; Crane truck; Crane-tower; Derrick-boom; Derrick-car; Diggers-wheel (not trencher or road widener); Double mine; Drag line; Dredge; drill-Kenny or similar type; Electromatic; Fork lift; Frankie pile; Gradall; Grader-power; Gurry; Gurry-self-propelled; High lift; Hoist-monorail; Hoist-stationary & mobile tractor; Hoist-2 or 3; Jackall; Jumbo mach.; Kocal or Ruhlman; land-seagoing vehicle; Loader - Elevating; Loader-front end; Locomotive; Mechanic as welder; Metro clip harvester w/boom; Mucking mach.; Paver-asphalt finishing mach.; Paver-road concrete; Paver-slip form; Place crete mach; Post driver; Power driven hydraulic pumps & jacks; pump crete machine; Regulator-ballast; Reigs-drilling; Shovels; Spikemaster; Stonecrusher; Tie puller & loader; tie tamper; Tractor-double boom; tractor w/attachments; Trucks-boom; Truck-tire-assigned to job; Trench mach.; Tunnel machine (Mark 21 Java or similar); Whiley

CLASS II - Asphalt plant; bending machine; Boring mach.; Chip harvester w/o boom; cleaning mach.- pipeline type; Coating Mach-pipeline type; Concrete belt placer; concrete finisher; Concrete planer or asphalt; Concrete spreader; Elevator; Fork lift walk behind; form line mach.; Grease truck op.; Grout pump; Gunnite mach.; Huck bolting Mach.; Hydraulic scaffold; Paving breaker; Pipe dream; Pot firemen; Power broom; Refrigeration plant; Saugen derrick; Seeding Mach.; Self-propelled mobile vibrator compactor or roller; Hoist-single drum; Soil stabilizer (pump type); Spray cure Mach.-Self propelled; Straw blower mach.; Sub-grader; Tube Finisher or broom C.M.I. or similar type; Tugger Hoist

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POWER EQUIPMENT OPERATORS (CONT'D)

CLASS III - Batch plant-job related; Boiler op.; Compressor (125 CFM or over); Curb builder (self-propelled); Generator-steam; Jack-hydraulic driven; Mixer-concrete; Mulching Mach.; Pin puller; Pulverizer; Pump; Road finishing mach. (pulltype); roller; Saw-concrete-self propelled; signal man; spray cure mach.-motor powered; Spreader (side driver shoulder attachment); Tractor; Trencher-form; Water Blaster
CLASS IV - Brake man; Compressor under 125 CFM; Conveyor; Conveyor 12 feet or under other than servicing bricklayers; Deck hand; Drill wagon; fireman; Generator sets; Heaters-portable power (2 to 5); Helper-mechanic, Jacks Hydraulic (railroad); Ladavator; Roller (walk behind 1 ton or over); Steam Jenny; Syphons; Vibrator-gasoline; Welding machines (2) (fuel burning)
CLASS V - Oiler
CLASS VI - Rigs-pile driving or caisson type

SUPERSEDEAS DECISION

STATE: Ohio
COUNTIES: Statewide
DECISION NO.: OH77-2063
DATE: Date of Publication
Supersedes Decision No. OH76-2041, dated April 9, 1976 in 41 FR 15300
DESCRIPTION OF WORK: Heavy and Highway Construction

BRICKLAYERS & STONE MASONS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADAMS & SCIOTO Cos.	$ 9.50				
ALLEN, AUGLAIZE, MERCER & VAN WERT Cos.	10.53		.20		
ASHLAND, CRAWFORD, HARDIN, HOLMES, MARION, MORROW, RICHLAND, & WAYNE Cos. & WYANDOT Co. (except Townships of Crawford, Richland, Ridge & Tymochtee)					
Bricklayers	10.19	.50	.85		.02
Sewer Bricklayers	10.19	.50	.85		.02
ASHTABULA County					
Bricklayers	10.66	.60	.50		
Sewer Bricklayers	9.91	.60	.50		
ATHENS County	11.20	.50	.30		
BELMONT & MONROE Counties & JEFFERSON County (Townships of Mt. Pleasant, & Warren & City of Dillonvale)	9.60	.60	.25		.02
BROWN, CLERMONT & HAMILTON Cos. Bricklayers & Stonemasons	11.245	.55	.35		.02
BUTLER & WARREN Cos. & PREBLE Co. (Townships of Dixon, Gratis, Isreal, Lanier, & Somers)	10.435	.45	.35	.45	.01
CARROLL, STARK & TUSCARAWAS Cos., MAHONING Co. (Township of Smith), COLUMBIANA Co. (Townships of Butler, Hanover, Knox & West)	10.40	.70	.45		.01
CHAMPAIGN, CLARK & LOGAN Cos.	10.10				
CLINTON & HIGHLAND Cos.	8.50				
COLUMBIANA Co., (Townships of Center, Elk Run, Fairfield, Middletown, New Waterford, Perry, Salem & Unity), MAHONING Co. (except Smith Twp.)	10.71	.60	.60		.02

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BRICKLAYERS & STONEMASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COLUMBIANA County (Twps. of E. Liverpool, Franklin, Madison, St. Clair, Washington, Wayne & Yellow Creek), JEFFERSON Co. (Twps. of Bush, Creek & Saline)	$ 9.80	.50	.50		
COSHOCTON, GUERNSEY, KNOX, LICKING, MORGAN & MUSKINGUM Counties	9.68	.45	.50		.02
CUYAHOGA Co. & MEDINA Co. (except the Twps. of Chatham, Harrisville, Homer, Litchfield & Spencer)	11.25	.95	1.00		.01
DARKE, MIAMI, & SHELBY Cos.	10.30		.25		.05
DEFIANCE, PAULDING, PUTNAM & WILLIAMS Cos., FULTON Co. (except Twps. of Amboy, Fulton & Swan Creek), HENRY Co. (except Twps of Barlo, Damascus, Liberty, Marion, Monroe, Richfield, Washington & that part of Harrison outside City limits of Napolean)	11.30	.60			
DELAWARE, FRANKLIN MADISON, PICKAWAY & UNION Cos. Bricklayers	10.04	.80	.70		.02
ERIE, HANCOCK & HURON Cos. & OTTAWA Co., SANDUSKY, SENECA, WOOD (Perry & Bloom Twps.) WYANDOT (Tymochtee, Crawford, Ridge, & Richland Twps.) & ISLAND OF LAKE ERIE North of SANDUSKY	10.70	.50	.35		.01
FAIRFIELD , HOCKING & PERRY Cos.	8.80	.45	.50		.02
FAYETTE, ROSS & PIKE Cos.	10.50				
GALLIA & MEIGS Cos.	10.45	.50			
GEAUGA & LAKE COS.	11.57	.50	.80		40.00 p/y
GREENE & MONTGOMERY Cos. & the remainder of PREBLE Co.	10.05	.55	.75		.01

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BRICKLAYERS & STONEMASONS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
NOBLE Co. (Twps. of Beaver, Buffalo, Marion, Seneca & Waynel	9.68	.45	.50		.02
HARRISON Co. & the remainder of JEFFERSON Co.	8.93	.45			.02
JACKSON & VINTON Cos.	10.50				
LAWRENCE County	9.00				
LORAIN Co. & the remainder of MEDINA Co.	11.35		.40		.01
LUCAS Co., the remainder of FULTON Co. & WOOD Co. (Twps. of Lake, Perrysburg & Ross)	11.655	.73	.80		.01
PORTAGE & SUMMIT Cos.: Bricklayers	10.97	.57	.50		.02
TRUMBULL County	11.01	.40	.50		.02
WASHINGTON Co. & the remainder of NOBLE Co.	9.70	.50			.04
The remainder of WOOD & HENRY Cos.	11.86	.65	.45		.01
CARPENTERS & PILEDRIVERMEN					
ADAMS, FAIETTE, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, ROSS, & SCIOTO COS.					
Carpenters	$ 9.96	.40	.50		.03
Piledrivermen	10.25	.40	.50		.03
ALLEN, ASHLAND, CHAMPAIGN, CLARK, COSHOCTON, DELAWARE, FAIRFIELD, FRANKLIN, GUERNSEY, HARDIN, HOLMES, KNOX, LICKING, LOGAN, MADISON, MARION, MERCER, MORGAN, MORROW, MUSKINGUM, NOBLE, PERRY, PICKAWAY, PUTNAM, UNION, VAN WERT, & WYANDOT Cos.					
Carpenters	9.67	.40	.50		.02
Piledrivermen	10.27	.40	.50		.02

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CARPENTERS & PILEDRIVERMEN (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASHLAND, CRAWFORD, ERIE (East of B & O Rail Road Tracks), HURON, LORAIN & RICHLAND Counties					
Carpenters	10.36	.50	.80	a	.04
Piledrivermen	10.36	.50	.80	a	.04
Footnote: a. 2 paid holidays: Memorial Day & Labor Day					
ERIE (West of B & O Rail Road Tracks), OTTAWA, SANDUSKY & SENECA COS. & city of Postocia in WOOD & HANCOCK COS.					
Carpenters	10.36	.50	.80	a	.04
Piledrivermen	11.97	.73	.50		.05
ASHTABULA, CUYAHOGA, GEAUGA & LAKE Counties					
Carpenters	11.60	.67	1.00		.03
Piledrivermen	11.45	.67	1.15		.03
ATHENS HOCKING, VINTON & WASHINGTON Counties					
Carpenters	9.67	.40	.50		.02
Piledrivermen	10.27	.40	.50		.02
BELMONT, COLUMBIANA, HARRISON, JEFFERSON & MONROE Cos.					
Carpenters	9.45	.87	.65		.02
Piledrivermen	9.52	.40	.50		.01
BROWN, BUTLER, CLERMONT, CLINTON, HAMILTON & WARREN Cos.					
Carpenters	10.55	.60	.65		.075
Piledrivermen	10.55	.60	.65		.075
CARROLL, STARK, TUSCARAWAS & WAYNE Cos.					
Carpenters	9.89	.40	.30		.02
Piledrivermen	10.35	.40	.30		.02
DARKE, GREENE, MIAMI, MONTGOMERY, PREBLE & SHELBY Cos.					
Carpenters	9.60	.60	1.00		.05
Piledrivermen	9.60	.60	1.00		.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN (CONT'D)					
DEFIANCE, HENRY, PAULDING & WILLIAMS Cos.					
Carpenters	11.29	.73	.40		
Piledrivermen	11.97	.73	.50		.05
FULTON, HANCOCK, LUCAS & WOOD Cos., excluding the city of Fostoria in HANCOCK & WOOD Cos.					
Carpenters	11.97	.73	.50		.05
Piledrivermen	11.97	.73	.50		.05
MAHONING & TRUMBULL Cos.					
Carpenters	9.45	.87	.65		.02
Piledrivermen	10.60	1.07	.80		.02
MEDINA, PORTAGE, & SUMMIT Cos.					
Carpenters	11.00	.40	.50		.02
Piledrivermen	11.45	.67	1.15		.03
CEMENT MASONS:					
CUYAHOGA, GEAUGA, LAKE & LORAIN Counties	10.73	.50			.02
ALLEN, ASHTABULA, COLUMBIANA, DEFIANCE, ERIE, FULTON, HARDIN, HANCOCK, HENRY, HURON, LUCAS, MAHONING, MEDINA, OTTAWA, PAULDING, PORTAGE, PUTNAM, SANDUSKY, SENECA, STARK, SUMMIT, TRUMBULL, VAN WERT, WILLIAMS & WOOD Cos.	10.08	.50			.02
Remainder of Counties	9.53	.50			.02
ELECTRICIANS					
ADAMS & SCIOTO Cos., JACKSON Co. (all but Coal, Jackson, Liberty, Milton & Washington Twps.) PIKE Co. (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish & Union)	10.50	.50	1%+.40	.52	.04

DECISION NO. OH77-2063

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (CONT'D)					
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, & VAN WERT Cos. & WYANDOT Co. (West of Crane, Pitt, & Tymochtee Twps)	10.94	.32	1%+.37		.04
ASHLAND, CRAWFORD, MARION, MORROW & RICHLAND Cos., WYANDOT CO. (Remainder of County), KNOX Co. (North ½ including Clinton, Howard, Liberty, Monroe & Union Twps.), & HURON Co. (Twps. of Greenwich, New Haven, Richmond & Ripley)	10.90	.48	1%+.30		.1%
ASHTABULA Co. (all but Colebrook, Orwell, Wayne, Williamsfield & Windsor Twps.)	11.70	.65	1%+.75		.2%
ATHENS, MEIGS, MONROE, NOBLE & WASHINGTON Cos., & VINTON Co (East of Clinton, Elk & Swan Twps.)	10.15	.50	1%+.62	1.02	.04
BELMONT Co.	9.20	.30	1%+.32	1.02	.04
BROWN, CLERMONT & HAMILTON COUNTIES					
Within 18 Mi. of Hamilton County Court House	11.30	.70	1%+.40		.5%
From 18 to 21 Miles	11.60	.70	1%+.40		.5%
From 21 to 25 Miles	11.70	.70	1%+.40		.5%
Over 25 Miles	11.85	.70	1%+.40		.5%
BUTLER County & WARREN Co. excluding Clear Creek, Franklin & Wayne Twps Within City Limits of Hamilton or Middleton	11.40	.40	1%+.65		½%
Outside city limits West of Interstate 75	11.75	.40	1%+.65		½%
Outside city limits East of Interstate 75	11.95	.40	1%+.65		½%
CHAMPAIGN & CLARK Cos. & MADISON Co. (Twps. of Paint, Pike, Somerford, Stokes & Union)	10.09	.45	1%+.65		.04

DECISION NO. OH77-2063

ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY & PREBLE Cos. & WARREN Co. (Remainder of Co.)					
Within 11 Mi. radius of 3rd & Main Streets, Dayton	11.08	.45	1%+1.00		.5%
Beyond 11 Mi. radius	11.31	.45	1%+1.00		.5%
COLUMBIANA Co. (except the Twps. of Butler, Fairfield, Knox, Perry, Salem & Unity	10.26	8%	4.5%	8%+a	1%
FOOTNOTE: a. 9 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Good Friday, Day after Thanksgiving Day & Day before Christmas					
COSHOCTON Co. & TUSCARAWAS Co. (South ½ including the Twps. of Auburn, Clay, Rush & York)					
CUYAHOGA CO., LORAIN CO. (Twps. of Columbia), & GEAUGA Co. (Twps. of Bainbridge, Chester & Russell)	12.15	.50	1%+.43		.02
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD Cos.	12.35	.50	1%+.55		.2%
DELAWARE, FAIRFIELD, FRANKLIN, & UNION Cos., MADISON (Remainder of Co.), & PICKAWAY Co. (excluding Deer Creek, Perry, Pickaway, Salt Creek & Wayne Twps.)	10.98	.28	1%+.60		.03
ERIE Co., HURON Co. (Remainder of Co.)	11.85	.53	1%		.1%
FAYETTE, HIGHLAND, HOCKING, & ROSS Cos. & JACKSON Co. (remainder of Co.), PICKAWAY, PIKE & VINTON Cos.	10.95	.29	1%		.02
GALLIA Co.	10.82	.50	1%+.45	1.00	.04
GUERNSEY, MUSKINGUM & PERRY Cos.	10.00	.28	1%+.60		.03
HARRISON & JEFFERSON COS. & CARROLL CO. (South of Fox, Harrison, Rose & Washington Twps.)	12.00	6%	1%+ 6%	8%	½%

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
HOLMES & STARK Cos., the remainder of CARROLL & TUSCARAWAS Cos., COLUMBIANA Co. (Knox Twp.), MAHONING Co. (Smith Twps), & WAYNE CO. (South of Baughman, Chester Green & Wayne Twps.)	11.20	.40	1%+.25		.3%
LAKE Co. & GEAUGA Co. (all but Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell & Troy Twps.)	12.08	.50	1%+.50		.3%
LAWRENCE County	10.37	.50	1%+.45	1.00	.04
LICKING Co. & KNOX Co. (remainder of Co.)	10.30	.28	1%+.60		.03
LORAIN CO. (remainder of Co.) & MEDINA Co. (Twps. of Litchfield & Liverpool)	11.68	.60	1%+.80		.1%
MAHONING Co. (excluding Milton & Smith Twps.), TRUMBULL Co. (Twps. of Hubbard & Liberty) & COLUMBIANA Co. (Twps. of Butler, Fairfield, Perry, Salem & Unity)	11.72	.53	5%		.3%
SUMMIT Co., the remainder of MEDINA & WAYNE Cos. & PORTAGE Co. (excluding Twps of Charleston, Edinburg, Freedom, Hiram, Palmyra, Paris & Windham)	11.48	.47	1%+.50		.2%
MORGAN Co.	9.40	.28	1%		.02
ASHTABULA (remainder of Co.), PORTAGE & TRUMBULL Cos., GEAUGA County (Twps. of Auburn, Middlefield Parkman & Troy), & MAHONING Co. (Twp of Milton)	11.76	.60	5%		.7%
IRONWORKERS:					
ADAMS, BROWN, CLERMONT & HAMILTON Cos. & the South half of BUTLER & WARREN Cos.					
Structural & Ornamental	11.08	.75	.85		.03
Reinforcing	10.43	.75	1.45		.02

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IRONWORKERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ALLEN, AUGLAIZE, CLINTON, DARKE, GREENE, MERCER, MIAMI, MONTGOMERY, PREBLE & SHELBY Cos., the North half of BUTLER & WARREN Cos., the West two-thirds of CHAMPAIGN & LOGAN Cos., the west three-fourths of CLARK Co. & the West four-fifths of HIGHLAND Co., Dayton Metropolitain Area	10.51	.75	1.05		.04
Outside of Dayton Metro Area	10.66	.75	1.05		.04
ASHLAND, CARROLL, COSHOCTON, HOLMES, RICHLAND, STARK, TUSCARAWAS, & WAYNE Cos.	10.62	.60	.60		.03
CUYAHOGA, ERIE, GEAUGA, HURON, LAKE, LORAIN, MEDINA & SUMMIT Cos., & ASHTABULA CO. (except the North-East Quarter), & PORTAGE Co. (except the Ravenna Ordnance Depot)	11.72	.60	.95		.03
ASHTABULA (Remainder of Co.)	10.00	1.11	1.01		.10
ATHENS, MEIGS, MORGAN, NOBLE, & WASHINGTON Cos.	10.17	.75	.85		.01
BELMONT GUERNSEY, HARRISON, JEFFERSON & MONROE Cos.	9.30	.60	.50	5%	.03
COLUMBIANA, MAHONING & TRUMBULL Cos. & The Ravenna ORDNANCE Depot in PORTAGE Co.	11.08	.40	1.00		.07
CRAWFORD, FAYETTE, HARDIN, HOCKING, JACKSON, KNOX, MARION, MORROW, MUSKINGUM, PERRY, PIKE, ROSS, VINTON, WYANDOT, & the remainder of CHAMPAIGN, CLARK, HIGHLAND & LOGAN Cos.	10.60	.75	1.35		.05
DELAWARE, FAIRFIELD, LICKING, MADISON, PICKAWAY & UNION Cos.	10.50	.75	1.35		.05
FRANKLIN County	10.35	.75	1.35		.05
DEFIANCE, PAULDING, PUTNAM, VAN WERT & WILLIAMS Cos.	10.75	.75	.95		.01
FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, SANDUSKY, SENECA, & WOOD COS	11.75	.73	1.06		.05
GALLIA, LAWRENCE, & SCIOTO Cos.	10.61	.65	.70		.01

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LINEMEN	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADAMS, ATHENS, GALLIA, LAWRENCE, MEIGS, & SCIOTO Cos., JACKSON Co. (except Coal, Jackson, Liberty, Milton & Washington Twps.), PIKE CO. (Twps. of Camp Creek, Marion, Newton, Scioto, Sunfish & Union), & VINTON Co. (East of Clinton, Elk, & Swan Twps.)	11.53	.45	1%+.40	1.00	5%
ALLEN, AUGLAIZE, HARDIN, LOGAN, MERCER, SHELBY, VAN WERT & WYANDOT Co. (Remainder of Co.)	11.18	.45	1%		
ASHLAND, CRAWFORD, MARION, MORROW, & RICHLAND Cos,. HURON Co. (Townships of Greenwich, New Haven, Richmond, & Ripley), KNOX Co. North Half including the Twps. of Clinton, Howard, Liberty, Monroe, & Union), & WYANDOT Co. East Half including the Twps of Crane, Pitt & Tymochtee)	10.30	.33	1%+.25		.25%
ASHTABULA Co. except the Twps. of Colebrook, Orwell, Wayne, Williamsfield, & Windsor	11.70	.65	1%+.75		.2%
BELMONT CO.	9.20	.30	1%+.32	1.02	.5%
BROWN, CLERMONT, & HAMILTON COS. Within 18 Mi. of Hamilton County Court House	11.30	.70	1%+.40		.5%
From 18 to 21 Miles	11.60	.70	1%+.40		.5%
From 21 to 25 Miles	11.70	.70	1%+.40		.5%
Over 25 Miles	11.85	.70	1%+.40		.5%
BUTLER Co. & WARREN CO., except Townships of Clear Creek, Franklin & Wayne-within city limits of cities of Hamilton & Middleton	11.40	.40	1%+.65		5%
West of Interstate 75	11.74	.40	1%+.65		5%
East of Interstate 75	11.95	.40	1%+.65		5%

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LINEMEN (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHAMPAIGN, & CLARK COS.	9.11	.35	1%		.25%
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY, & PREBLE Cos. & WARREN CO. (Remainder of Co.)					
WITHIN 11 Mi. radius of 3rd & Main Streets, Dayton	11.08	.45	1%+1.00		.5%
Beyond 11 Mi. radius	11.31	.45	1%+1.00		.5%
COLUMBIANA Co. except the Twps. of Butler, Knox, Fairfield, Perry, Salem & Unity	10.26	8%	4½%	8%	½%
COSHOCTON & TUSCARAWAS Cos.	10.83	.35	1%		½%
CUYAHOGA Co., & GEAUGA Co. (Twps. of Bainbridge, Chester, & Russell), LORAIN CO. (Columbia Twps.)	12.73	.35	1%		½%
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD Cos.	12.76	.45	1%	a	.25%

FOOTNOTE:
a. 9 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day; Christmas Eve; New Year's Eve & Day after Thanksgiving Day

DELAWARE, MADISON, PICKAWAY & UNION Cos.	11.56	.35	1%		½%
ERIE Co., & HURON Co. (Remainder of Co.)	11.85	.53	1%		1%
FAIRFIELD & LICKING Cos. & KNOX Co. (Remainder of Co.)	10.98	.45	1%		.50%
FAYETTE, HIGHLAND, HOCKING & ROSS Cos. & the remainder of JACKSON, PIKE & VINTON Cos.	10.95	.28	1%		.02
FRANKLIN Co.	9.20	.35	1%		½%

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LINEMEN (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GUERNSEY Co.	10.53	.35	1%		½%
MORGAN Co.	9.40	.28	1%+.30		
HARRISON, & JEFFERSON Cos. & CARROLL Co. (South of Fox, Harrison, Rose & Washington Twps.)	12.00	6%	7%	8%	½%
HOLMES & STARK Cos., CARROLL (Remainder of Co.), COLUMBIANA Co. (Knox Twp.), & WAYNE Co. (South of Baughman, Chester, Green & Wayne Twps.)	11.20	.40	1%+.25		.25%
LAKE CO. & GEAUGA Co. except the Twps of Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell & Troy	11.83	.50	1%+.50		.5%
LORAIN Co. (except Columbia Twp.) & MEDINA Co. (Twps. of Litchfield & Liverpool)	11.68	.60	1%+.80		.1%
MAHONING & TRUMBULL Cos., ASHTABULA Co. (Remainder of Co.), COLUMBIANA Co. (Twps of Butler, Fairfield, Perry, Salem & Unity), GEAUGA Co. (Townships of Auburn, Middlefield, Parkman, & Troy) & PORTAGE Co. (Twps of Charleston, Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris & Windham)	12.37	.45	1%		
MONROE, NOBLE & WASHINGTON Cos.	10.15	.50	1%+.62	1.02	.04
MUSKINGUM & PERRY COS.	10.53	.35	1%		.2%
SUMMIT Co. & the remainder of MEDINA, PORTAGE & WAYNE Cos.	11.48	.47	1%+.50		.2%
PAINTERS					
ADAMS, HIGHLAND, JACKSON, PIKE & SCIOTO Cos.					
Brush	10.85		.40		
Spray	11.85		.40		

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PAINTERS (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ALLEN, AUGLAIZE, DEFIANCE, HARDIN, MERCER, PAULDING, PUTNAM, SHELBY, VAN WERT & WILLIAMS Cos.	8.40	.50	.50		.01
ASHLAND, CRAWFORD, MARION, MORROW, & RICHLAND Cos.					
Brush	8.05		.50		
Structural Steel	8.55		.50		
Spray	8.80		.50		
ATHENS & HOCKING Cos.	10.03				
BELMONT Co.	7.50				
BROWN, CLERMONT & HAMILTON Cos.					
Brush	10.80		.25		
Spray	11.20		.25		
BUTLER & WARREN Cos.					
Brush	9.48				
Spray	9.98				
CARROLL, HOLMES, STARK, TUSCARAWAS & WAYNE Cos.					
Brush	9.47	.55	.50		.02
Spray	9.97	.55	.50		.02
Structural Steel	10.19	.55	.50		.02
CHAMPAIGN, CLARK & LOGAN Cos.					
Brush	7.80	.10	.25		
Structural Steel	8.35	.10	.25		
CLINTON, DARKE, GREENE, MIAMI, MONTGOMERY & PREBLE Cos.					
Brush	10.55	.40	.40		.02
Structural Steel	10.95	.40	.40		.02
Spray	11.05	.40	.40		.02

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PAINTERS (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CUYAHOGA, GEAUGA & LAKE Cos. , LORAIN (North East Part) & PORTAGE & SUMMIT Cos. North at the Ohio Turnpike					
Brush	10.81	.63	.74		.05
Structural Steel & Spray	11.51	.63	.74		.05
DELAWARE, FAIRFIELD, FAYETTE, FRANKLIN, MADISON, PICKAWAY & UNION Cos.	9.45	.55	.55		
ERIE, HANCOCK, HURON, SANDUSKY, SENECA & WYANDOT Cos.					
Brush	8.95	.50	.50		
Structural Steel & Bridges	9.65	.50	.50		
FULTON, HENRY, LUCAS, OTTAWA & WOOD Cos.					
Brush	10.49	.65	.70		
Spray	11.04	.65	.70		
Structural Steel	10.04	.65	.70		
GALLIA, LAWRENCE, MEIGS, & VINTON Cos.					
Brush	9.45				
Spray	9.75				
GUERNSEY County					
Brush	7.00				
Structural Steel, Tanks & Bridges	7.50				
HARRISON & JEFFERSON Cos.	7.70	.30	.25		
KNOX, LICKING, MUSKINGUM & PERRY Cos.					
Brush	7.00				
Structural Steel	7.65				
Bridge	7.65				
LORAIN Co. (Remainder of Co.)					
Brush	9.05				
Spray	9.55				
Structural Steel & Bridge	10.35				

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PAINTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COLUMBIANA, MAHONING & TRUMBULL Cos. and the Ravenna Ordnance Depot in PORTAGE County					
Brush	11.07	.60	.40		
Spray	11.57	.60	.40		
MEDINA Co. & PORTAGE & SUMMIT Cos. South of Ohio Turnpike excluding the Ravenna Ordnance Depot in PORTAGE Co.					
Brush	9.40	.62	.60		
Spray	9.90	.62	.60		
Structural Steel	9.65	.62	.60		
MONROE, MORGAN, NOBLE & WASHINGTON Cos.	9.92		.20		.02
ROSS County					
Brush	8.25				
Spray	9.00				
PLUMBERS & STEAMFITTERS:					
ADAMS, ATHENS, GALLIA, HIGHLAND, JACKSON, LAWRENCE, MEIGS, PIKE, SCIOTO, & VINTON Cos.	10.87	.55	.75		
ALLEN, AUGLAIZE, HARDIN, MERCER, & VAN WERT Cos.	11.35	.40	.65		.05
ASHLAND, ERIE, MORROW, & RICHLAND Cos.	11.63	.50	.80		.05
ASHTABULA, CUYAHOGA, GEAUGA & LAKE Cos., MEDINA Co. N. of Rt. 18 & Smith Rd. & SUMMIT Co. N. of Rt. 303					
Plumbers	11.43	.75	1.00		.02
Pipefitters	11.42	1.05	.80		.05
BELMONT Co. & MONROE Co. North of Rt. 78	8.96	.40	6%	10%	.05
BROWN, CLERMONT, HAMILTON & WARREN Cos.					
Plumbers	11.47	.75	1.05		.05
Steamfitters	11.35	.875	1.15		.08

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PLUMBERS & STEAMFITTERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUTLER Co. North half	11.45	.60	1.00		.05
BUTLER Co. South Half	11.37	.65	1.10		.02
CARROLL Co. (except Twps. of Ross, Monroe, Union, Lee, Orange, Perry & London), Stark & Wayne Cos.	10.77	.45	.55	a	.05
FOOTNOTE: a. One paid holiday: Labor Day Providing employee has worked 5 consecutuve days before and after the holiday					
CARROLL (Twps. of Ross, Monroe, Union, Lee, Orange, Perry & London) COSHOCTON, GUERNSEY, HOLMES, MORGAN (South of State Route #78 & from McConnelsville West on State Route #37 to the Perry Co. line), MUSKINGUM, NOBLE, & TUSCARAWAS Cos.	11.32	.35	.35		.08
CHAMPAIGN, CLARK & LOGAN Cos., GREENE Co. (Twps. of Cedarville, Ceasar Creek, New Jasper, Jefferson, & Ross), MADISON Co. (West of Rt. 38 including the City of London)	11.01	.58	.80		.04
CLINTON, DARKE, FAYETTE, MIAMI, MONTGOMERY, PREBLE & SHELBY Cos. & GREENE Co. (Remainder of Co.)	11.41	.55	.80		.03
COLUMBIANA & MAHONING Cos. & TRUMBULL Co. (Hubbard & Liberty Twps, Youngstown Municipal Airport & the Filtration Plant of the Mahoning Valley Sanitary District)	11.49	.75	.50		.03
CRAWFORD & WYANDOT Cos.	11.63	.50	.80		.05

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PLUMBERS & STEAMFITTERS (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DEFIANCE, FULTON, HANCOCK, HENRY, LUCAS, OTTAWA, PAULDING, PUTNAM, SANDUSKY, SENECA, WILLIAMS & WOOD Cos.	12.03	.80	.85		.09
DELAWARE, FAIRFIELD, FRANKLIN, HOCKING, LICKING, MARION, PERRY, PICKAWAY, ROSS & UNION Cos. & MADISON (remainder of Co.)	11.82	.55	.80		.05
ERIE & HURON Cos.	11.63	.50	.80		.05
LORAIN Co.	11.63	.50	.80		.05
MONROE Co. (Remainder of Co.), MORGAN (Remainder of Co.), & WASHINGTON Co.	10.63	.52	.40		.045
PORTAGE Co. & the remainder of MEDINA & SUMMIT Cos.	10.61	.79	.90		.04
TRUMBULL Co. (Remainder of Co.)	10.75	.57	.65		.01

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LABORERS

	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$ 8.83	8.15	7.72
GROUP II	8.955	8.275	7.845
GROUP III	9.03	8.35	7.92
GROUP IV	9.18	8.50	8.07
GROUP V	9.48	8.80	8.37

FRINGE BENEFITS FOR ALL ZONES AND CLASSIFICATIONS
$.55 - Health & Welfare
.40 - Pension
.05 - Education and/or Apprentice Training

GROUP I - Laborers (construction); plant laborers or yardmen; right-of-way laborers; landscape laborer; utility man or handyman; joint setter; flagman; carpenter helper; waterproofing laborer; slurry seal; seal coating surface treatment or road mix laborer & grouter; asphalt laborer dump man (batch trucks); guardrail & fence installers; mesh handlers & placers; concrete curing applicator; scaffold erector
GROUP II - Asphalt raker; concrete puddler; kettle man (pipeline); machine driven tools; mason tender; mortar mixer; sheeting & shoring man; surface grinder man; power buggy or power wheelbarrow
GROUP III - Form setter; bottom man; Welder helper (pipeline); concrete saw man; cutting with burning torch; pipelyer; hand spiker (railroad); car pusher (without air); undergroundman (working in sewer & waterline, repairing & reconditioning); tunnel laborer (without air) and caisson; cofferdam (below 25 feet deep); air track & wagon drill
GROUP IV - Blaster; power man; muckers; wrencher (mechanical joints & utility pipeline); yarner; top lander
GROUP V - Curb setter & cutter; miner without air; concrete crew in tunnels; utility pipeline tapper; gunnite nozzle man; waterline caulker

ZONE DEFINITIONS

Zone 1 - Cuyahoga, Geauga & Lake Cos.
Zone 2 - Ashtabula, Erie, Huron, Lorain, Lucas, Mahoning, Medina, Ottawa, Portage, Stark, Summit, Trumbull & Wood Cos.
Zone 3 - Remainder of Counties

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POWER EQUIPMENT OPERATORS ZONE 1 - Columbiana, Mahoning & Trumbull Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 11.18	.65	.80		.14
CLASS II	10.49	.65	.80		.14
CLASS III	9.91	.65	.80		.14
CLASS IV	9.50	.65	.80		.14
CLASS V	9.40	.65	.80		.14
CLASS VI	11.45	.65	.80		.14

CLASS I - Asphalt planer heater; Austin western & similar type; Backhoe; Batch plant-central mix; Batch plant-portable concrete; Berm builder-automatic; Backfiller w/drag attachment; Boat derrick; Boat-tug; Boring mach. attached to tractor; Bullclam; Bulldozer; C.M.I. road builder & similar types; Cable placer & layer; Carrier-straddle; Carryall - scraper or scoop; Chicago boom; Compactor w/blade attached; Concrete spreader finisher comb., Crane; Crane-stationary or climbing; Crane-electric overhead; Crane-side boom; Crane truck; Crane-tower; Derrick-boom; Derrick-car; Diggers-wheel (not trencher or road widener); Double nine; Drag line; Dredge; drill-Kenny or similar type; Electromatic; Fork lift; Frankie pile; Gradall; Grader-power; Gurry; Gurry-self-propelled; High lift; Hoist-monorail; Hoist-stationary & mobile tractor; Hoist-2 or 3; Jackall; Jumbo mach.; Kocal or Kuhlman; land-seagoing vehicle; Loader - Elevating; Loader-front end; Locomotive; Mechanic as welder; Metro clip harvester w/boom; Mucking mach.; Paver-asphalt finishing mach.; Paver-road concrete; Paver-slip form; Place crete mach; Post driver; Power driven hydraulic pumps & jacks; pump crete machine; Regulator-ballast; Reigs-drilling; Shovels; Spikemaster; Stonecrusher; Tie puller & loader; tie tamper; Tractor-double boom; tractor w/attachments; Trucks-boom; Truck-tire-assigned to job; Trench mach.; Tunnel machine (Mark 21 Java or similar); Whiley

CLASS II - Asphalt plant; bending machine; Boring mach.; Chip harvester w/o boom; cleaning mach.- pipeline type; Coating Mach-pipeline type; Concrete belt placer; concrete finisher; Concrete planer or asphalt; Concrete spreader; Elevator; Fork lift walk behind; form line mach.; Grease truck op.; Grout pump; Gunnite mach.; Huck bolting Mach.; Hydraulic scaffold; Paving breaker; Pipe dream; Pot firemen; Power broom; Refrigeration plant; Sasgen derrick; Seeding Mach.; Self-propelled mobile vibrator compactor or roller; Hoist-single drum; Soil stabilizer (pump type); Spray cure Mach.-Self propelled; Straw blower mach.; Sub-grader; Tube Finisher or broom C.M.I. or similar type; Tugger Hoist

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POWER EQUIPMENT OPERATORS
ZONE 1 - Columbiana, Mahoning & Trumbull Counties (Cont'd)

CLASS III - Batch plant-job related; Boiler op.; Compressor (125 CFM or over); Curb builder (self-propelled); Generator-steam; Jack-hydraulic driven; Mixer-concrete; Mulching Mach.; Pin puller; Pulverizer; Pump; Road finishing mach. (pulltype); roller; Saw-concrete-self propelled; signal man; spray cure mach.-motor powered; Spreader (side driver shoulder attachment); Tractor; Trencher-form; Water Blaster

CLASS IV - Brake man; Compressor under 125 CFM; Conveyor; Conveyor 12 feet or under other than servicing bricklayers; Deck hand; Drill wagon; fireman; Generator sets; Heaters-portable power (2 to 5); Helper-mechanic, Jacks Hydraulic (railroad); Ladavator; Roller (walk behind 1 ton or over); Steam jenny; Syphons; Vibrator-gasoline; Welding machines (2) (fuel burning)

CLASS V - Oiler

CLASS VI - Rigs-pile driving or caisson type

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appt. Tr.
CLASS A	$11.28	$ 10.54	.46	1.00		.11
CLASS B	11.18	10.42	.46	1.00		.11
CLASS C	10.14	9.38	.46	1.00		.11
CLASS D	9.67	8.95	.46	1.00		.11
CLASS E	8.23	7.34	.46	1.00		.11

CLASS A - Air compressor on steel erection; Asphalt plant engineer (Cleveland District only); Boiler Op.; compressor or generator when mounted on rig; Cableway; combination concrete mixer & tower; Concrete plants (over 4 yds. cap.); Concrete pumps; Cranes (all types incl. A frames, boom trucks, cherry pickers); Derricks; Draglines; Dredge (dipper clam or suction); Elevation grader or euclid loader; Floating equipment (all types); Helicopter crew (hoist to winch); hoes (all types); Hoisting engines (including shaft & tunnel work); Industrial type tractor; Jet engineer dryer (D8 or D9); diesel tractor; Locomotives (standard guage); Maintenance Op. Class A; Mixer (paving single or double drum); Mucking mach.; Multiple scraper; piledriving mach. (all types); power shovel; Quad 9 (double pusher); Refrigerating mach. (freezer operation); Rotary drill on caisson work; slip form paver; Tower derricks; Tree shredder; Trench mach (over 24" wide); Truck mounted concrete pump; Tug boat; tunnel mach.; Mining mach.; wheel excavator

CLASS B - Asphalt paver; Automatic subgrader mach. self propelled (CMI type), Boring mach. Op. (more than 48"), Bulldozers; Endloader; Kolman Loader (production type dirt); Lead grease man; Maintenance Op., Class B (in Zone 2 Portage & Summit Cos. only); Power grader; Power Scraper; Push Cat; Trench mach. (24" wide & under)

CLASS C - Air compressor on tunnel work (low pressure); asphalt plant engineer; Locomotive (narrow gauge); Concrete mixers (more than 1 bag cap.); Mixers (1 bag cap. - side loader); Power boiler over 15 lb. pressure; Pump Op. installing & operating well points; Pumps (4" & over discharge); Rollers (asphalt); Utility Op. (small equipment); welding mach. & generators.

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POWER EQUIPMENT OPERATORS (CONT'D)

CLASS D - Back Fillers; Bar (joint & mesh installing mach.); Batch Plant; Boring mach. Op. (48" or less); Bull floats; Burlap & curing mach.; Compressor (portable, sewer, hvy & hwy.); Concrete plant (4 yd. & under cap.); concrete saw (multiple); Conveyors (hwy.); Crusher, Deckhand; drill highway (w. integral power); Farm type tractors w/attachments; Finishing Mach.; Fireman (floating equipment, all types); fork lift (Hwy.); form Trenchers; Hydro hammer; Hydro seeder; Pavement breaker; Plant mixers; Post driver; Post Hole digger (power auger);power brush burner; Power form handling Equip.; Road Widening trencher; Rollers (brick, grade, macadam); self-propelled power spreader; self-propelled power subgrader; Steam fireman; Tractor (pulling sheepfoot roller or grader); Vibratory compactor (w/integral power)

CLASS E - Drum fireman (asphalt plant); Helpers; Inboard-outboard, motor boat-launch; Oil heaters (asphalt plant); Oilers; Power driven heaters; Pumps (under 4" discharge); Signalmen; Tire repairmen

ZONE DEFINITIONS

ZONE 2 - Ashtabula, Cuyahoga, Erie, Geauga, Lake, Lorain, Medina, Portage & Summit Counties

ZONE 3 - Remainder of counties

DECISION NO. OH77-2063

TRUCK DRIVERS
ZONE I - CUYAHOGA, LAKE & GEAUGA COUNTIES

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 7.70	26.00a	26.00a	b&c	
CLASS II	7.85	26.00a	26.00a	b&c	
CLASS III	8.20	26.00a	26.00a	b&c	
CLASS IV	8.20	26.00a	26.00a	b&c	

CLASS I - Straight & dumps (including asphalt); Warehousemen; Straight fuel
CLASS II - Semi fuel; semi pole drivers (hauling steel pipe); & semi tractor drivers.
CLASS III - Ready-mix; agitator or bulk concrete drivers; dry batch truck.
CLASS IV - Euclids; darts; tank asphalt spreaders; low boys; carry-all driver; tournarockers; hi-lifts; fork lifts; extra long trailers & semi pole trailers except when hauling steel pipe; double hook-up tractor trailers including team track & railroad siding; semi tractor & tri-axle trailer; tandem tractor, Tandem trailer & tri-axle trailer; tag along trailer, expandable trailers, loads (requiring road permits)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day.

FOOTNOTES:

a. Per week per employee

b. One week's paid vacation for one year of service; two weeks for five years; three weeks for ten years & four weeks for seventeen years.

c. Seven paid holidays: A through F plus National Election Day.

DECISION NO. OH77-2063

TRUCK DRIVERS
ZONE II - Remainder of the State

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	$ 7.92	20.00a	7.00a		.05
CLASS II	7.97	20.00a	7.00a		.05
CLASS III	8.02	20.00a	7.00a		.05
CLASS IV	8.12	20.00a	7.00a		.05
CLASS V	8.02	20.00a	7.00a		.05
CLASS VI	8.39	20.00a	7.00a		.05

CLASS I - 4 wheel service truck; 4 wheel dump trucks; batch Trucks; oil distributors; asphalt distributors
CLASS II - Tandems
CLASS III - Semi tractor trucks; pole trailers; fuel trucks
CLASS IV - All trucks five axle & over
CLASS V - Asphalt oiler spraybar man when operated from cab
CLASS VI - Euclid wagons; Euclid end dumps; low boys; heavy duty equipment over 12 cu. yds. capacity when used exclusively for transportation; truck mechanics

FOOTNOTE:
a. Per week Per employee

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Adams & York
DECISION NO.: PA77-3028 DATE: Date of Publication
Supersedes Decision No. PA76-3204, dated June 18, 1976, in 41 FR 25870.
DESCRIPTION OF WORK: Building Construction,(does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments				
		H & W	Pensions	Vacation	App. Tr.	Others
Asbestos workers	$10.11	.52	.70		.01	
Boilermakers	12.05	.75	1.00		.01	
Bricklayers & Stonemasons	9.40	.45	.45			
Carpenters & (York County)	9.29	.35	.40		.03	
Carpenters & (Adams County)	9.50	.35	.40		.03	
Cement Masons (Adams County)	9.385	.50	.40			
Cement Masons (York County)	9.24	.35	.25		.01	
Electricians	10.30	.35	12%+.15		.01	
Elevator Constructors	10.20	.545	.35	4 %+a+b	.02	
Elevator Constructors helpers	7.14	.545	.35	4 %+a+b	.02	
Elevator Constructors helpers (prob)	4.93					
Ironworkers	10.63	.84	1.21		.03	
Laborers:						
Laborers (unskilled), Window Cleaner & Fire watch	6.45	.40	.40			
Operators of jackhammers, paving breakers, WADO barko & air tampers chipping hammers, vibrators & all other pneumatic & mechanical tools coming under the jurisdiction of laborers whether operated by air, electricity or any other means, & vacuma cleaner	6.65	.40	.40			
Wagon & truck drill operators	6.75	.40	.40			
Handling of all materials used by masons,lathers, plasterers, cement finishers, cement mixers, gunniting, also mixing of all materials used by masons, plasterers & cement finishers whether done by hand or any other process, building of scaffold for staging for masons & plasterers, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same, handling & using of burning torches, laying of precast concrete slabs for flooring or roofing.	6.60	.40	.40			
Laborers assisting tile, marble setters & terrazzo workers	6.50	.40	.40			
Handling & using dynamite	6.78	.40	.40			
Mixer man (after 10 bricklayers on job)	6.85	.40	.40			
Caisson work(top man)	6.70	.40	.40			
(bottom man)	6.90	.40	.40			
Line Construction:						
Lineman, cable splicers	10.23	.35	1%		3/8%	
Winch truck operator	7.15	.35	1%		3/8%	
Groundman	6.12	.35	1%		3/8%	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Marble, tile & terrazzo workers	$8.00	.45	.45		
Millwrights (Adams County)	10.61	.35	.40		.03
Millwrights (York County)	9.79	.35	.40		.03
Painters:					
Brush	6.25	.25	.15		
Steel & Spray	6.80	.25	.15		
Piledrivermen	10.42	1.88	1.30	c	.12
Plasterers (York County)	8.60	.35	.25		.01
Plasterers (Adams County)	9.05	.25	.25		.01
Plumbers	10.45	.30	.65		.12
Roofers:					
Composition	8.55	.45	.20	.25	
Slate, tile	9.15	.45	.20	.25	
Sheet metal workers	9.76	1.17	1.03		.05
Soft floor layers (Adams County)	8.63	.35	.40		.03
Soft floor layers (York County)	9.29	.35	.40		.03
Sprinkler Fitters	11.61	.60	.90		.08
Steamfitters	10.45	.30	.65		.12
Welders - Receive rate for craft					

PAID HOLIDAYS (Where Applicable)

A-Hre
A-New Year's Day; B-Memorial Day; C-Independence 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. Paid Holidays: A through F.

c. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans's Day; Thanksgiving Day.

POWER EQUIPMENT OPERATORS

	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%

GROUP 1: Machines doing book 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 lifts, 20 ft. lift and over machine to the above

GROUP 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 above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 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.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Schuylkill
DECISION NO.: PA77-3034 DATE:: Date of Publication
SUPERSEDEAS DECISION NO.: PA76-3181, dated June 11, 1976, in 41 FR 24858.
DESCRIPTION OF WORK: Building construction,(does not include 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 & stonemasons	8.90	.60	.95		
Carpenters	9.50	.35	.40		.03
Cement masons	8.90	.60	.95		
Electricians:					
North Manheim, South Manheim, West Brunswick, Wayne, Washington, Pottsville, Schuylkill Haven Twps.	10.49	.73	1%		.03
Pine Grove Twp.	9.00	.45	3%		1/2%
North Union, East Union, West Mahony,(excluding Frackville Borough), Mahony, Delano, Kline, Rush, Ryan, Blythe, Schuylkill, Walker Rahn, East Brunswick and West Penn. Twps.	10.37	.55	1%+.25	f	g
Remainder of County	10.45	.30	1%+.20		.05
Glaziers	8.89	.40	.30		.01
Ironworkers	10.20	.79	1.11		.02
Laborers:					
Unskilled laborers & window cleaners	6.55	.25	.25		
Operator of jackhammer, paving breaking & other pneumatic, electric & mechanical tools, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe & the making of joints for same, wagon drill operators, cofferdams (below 10'), tunnel free air handling & using cutting or burning torches in the wrecking of buildings, blasters, plasterer-tenders, mason tenders, scaffold builders and removal & power buggies	6.65	.25	.25		
Lathers	7.25	.15			.01
Lead Burners	10.75	.40	.25	a	.01

DECISION NO.: PA77-3034 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Lineman, heavy equipment operator	$10.30	.35	3%		3/8%
Groundman, truck driver	7.28	.35	3%		3/8%
Groundman	6.97	.35	3%		3/8%
Marble setters & terrazzo workers	8.90	.60	.95		
Millwrights	10.61	.35	.40		.03
Painters:					
Commercial and Industrial					
Brush	8.40	.60	.45		
Steel	9.45	.60	.45		
Spray	9.45	.60	.45		
Piledrivermen	10.42	1.88	1.30	e	.12
Plasterers	8.90	.60	.95		
Plumbers	10.74	.40	.75		.04
Roofers:					
Barry Branch, Butler, Delano, East Brunswick, East Union, Eldred, Foster, Fraily, Begins, Hubley, Kline, New Castle, North Union, Porter, Rahn, Reilly, Rush, Fremont, Union, Upper Mahantango, West Penn:					
Composition	9.20	.75	.70		
Remainder of County:					
Composition, damp waterproofing	10.60	.45	.25	d	
Slate, tile & asbestos	11.15	.45	.25	d	
Precast slab	11.40	.45	.25	d	
Sheet metal workers	10.08	.50	.50		.02
Soft floor layers	8.63	.35	.40		.03
Sprinkler Fitters	11.61	.60	.90		.08
Steamfitters	10.75	.39	.75		.04
Tile setters	7.90	.60	.95		
Truck drivers	6.23	b	c		
Welders - rate for craft					

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F, plus Washington's Birthday, Good Friday, and Christmas Eve provided the employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the re

b. Employer contri~~~tes $56.37 per month to Health and Welfare fund.

c. Employer contributes $43.34 per month to Pension Fund.

d. Paid Holiday: C

e. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

f. Paid Holidays; July 4th, Labor Day; Thanksgiving Day and Good Friday.

g. Employer shall contribute .12 per day per employee.

POWER EQUIPMENT OPERATORS	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%

GROUP 1: Machines doing book 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 21E 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 lifts, 20 ft. lift and over machine to the above

GROUP 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 above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 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.

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Hood, Johnson, Palo Pinto, Parker & Wise

DECISION NO.: TX77-4086

DATE: Date of Publication

Supersedes Decision No. TX76-4043, dated February 13, 1976, in 41 FR 7011.

DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

DECISION NO. TX77-4086

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING MECHANICS	$ 5.00				
BRICKLAYERS	6.50				
CARPENTERS	6.00				
CEMENT MASONS	4.00				
DRYWALL HANGERS	5.00				
ELECTRICIANS	5.49				
IRONWORKERS	4.30				
LABORERS:					
Laborers	2.50				
Mason tenders	4.00				
PAINTERS	5.50				
PLUMBERS	5.50				
SOFT FLOOR LAYERS	4.75				
TILE SETTERS	4.75				
TRUCK DRIVERS	2.50				

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 2.75				
Asphalt Easterman	3.50				
Asphalt Raker	3.75				
Asphalt Shoveler	3.00				
Batching Plant Scaleman	4.25				
Carpenter	4.25				
Carpenter Helper	3.50				
Concrete Finisher (Paving)	4.50				
Concrete Finisher Helper (Paving)	3.25				
Concrete Finisher (Structures)	4.25				
Concrete Finisher Helper (Structures)	3.55				
Concrete Rubber	3.50				
Electrician	6.75				
Electrician Helper	4.00				
Form Builder (Structures)	4.00				
Form Builder Helper (Structures)	3.80				
Form Liner (Paving and Curb)	4.50				
Form Setter (Paving and Curb)	4.25				
Form Setter Helper (Paving and Curb)	3.50				
Form Setter (Structures)	4.25				
Form Setter Helper (Structures)	3.85				
Laborer, Common	2.75				
Laborer, Utility Man	3.35				
Mechanic	4.45				
Mechanic Helper	3.35				
Oiler	3.80				
Serviceman	4.00				
Piledrivermen	4.50				
Pipelayer	4.00				
Pipelayer Helper	3.00				
Powdermen	4.35				
Reinforcing Steel Setter (Paving)	3.00				
Reinforcing Steel Setter (Structures)	3.50				
Reinforcing Steel Setter Helper	3.00				
Steel Worker (Structural)	4.15				
Steel Worker Helper (Structural)	3.75				
Sign Erector	4.25				
Sign Erector Helper	3.90				

DECISION NO. TX77-4086

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Spreader Box Man	$ 4.00				
Power Equipment Operators:					
Asphalt Distributor	4.00				
Asphalt Paving Machine	4.00				
Broom or Sweeper Operator	3.25				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.25				
Concrete Paving Curing Machine	4.50				
Concrete Paving Finishing Machine	4.00				
Concrete Paving Longitudinal Float	4.50				
Concrete Paving Mixer	4.00				
Concrete Paving Saw	4.30				
Concrete Paving Spreader	3.00				
Paving Sub Grader	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.25				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.75				
Form Loader	3.25				
Foundation Drill Operator (Truck Mounted)	4.60				
Foundation Drill Operator Helper	3.50				
Front End Loader (2½ CY & Less)	3.75				
Front End Loader (Over 2½ CY)	4.50				
Mixer	3.75				
Motor Grader Operator, Fine Grade	4.50				
Motor Grader Operator	4.25				
Roller, Steel Wheel (Plant-Mix Pavements)	3.90				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.50				
Roller, Pneumatic (Self-Propelled)	3.55				
Scrapers (17 CY and Less)	4.25				
Scrapers (Over 17 CY)	4.50				
Self-Propelled Hammer	4.25				
Tractor (Crawler Type) 150 HP and Less	3.45				
Tractor (Crawler Type) over 150 HP	4.50				

DECISION NO. TX77-4086

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Tractor (Pneumatic) 80 HP & Less	$ 3.60				
Tractor (Pneumatic) over 80 HP	3.90				
Traveling Mixer	3.35				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.90				
Truck Drivers:					
Single Axle, Light	3.00				
Single Axle, Heavy	3.60				
Tandem Axle or Semitrailer	3.50				
Lowboy-Float	4.50				
Transit-Mix	3.25				
Winch	3.50				
Weighman (Truck Scales)	3.00				
Welder	4.50				

SUPERSEDEAS DECISION

STATE: Wisconsin
COUNTY: Statewide
DECISION NUMBER: WI77-2049
DATE: Date of Publication
Supersedes Decision Number WI76-2119, dated October 8, 1976 in 41 FR 44681
DESCRIPTION OF WORK: Highway Construction (does not include airport runways and taxiways; bridges over navigable water; tunnels; rest areas which include building structures; and railroad construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS & STONEMASONS:					
Zone 1 - Barron, Buffalo, Burnett, Chippewa, Dunn, Eau Clair, Pepin, Pierce, Polk, Rusk, St. Croix & Sawyer Cos.	$ 9.19	.55	.25		.03
Zone 2 -Pond Du Lac County	8.05	.55	.35	.55	
Zone 3 - Brown, Calumet, Door, Florence, Green Lake, Kewaunee, Manitowoc, Marinette Marquette, Oconto, Outagamie, Shawano, Waupaca, Washara, & Winnebago Counties	8.05	.55	.35	.55	
Zone 4 - Green, Lafayette & Rock Counties	9.69	.45	.25	.25	.01
Zone 5 - Crawford, Jackson, Juneau, La Crosse, Vernon, Trempealeau & Monroe Cos.	9.05	.40	.25		
Zone 6 - Walworth County	10.05	.50	.50	.50	.02
Zone 7 - Dane, Grant, Iowa & Richland Counties	9.10	.45	.50	.40	
Zone 8 - Milwaukee, Ozaukee, Washington & Waukesha Cos.	10.44	.80	.60	.56	
Zone 9 - Columbia & Sauk Cos.	9.60	.55	.30		
Zone 10 - Kenosha & Racine Cos.	10.35	.40	.40	.40	
Zone 11 - Sheboygan County	8.15	.45	.35	.55	.02
Zone 12 - Ashland, Bayfield, Douglas & Iron Counties	9.56	.46	.46		.01
Zone 13 - Dodge & Jefferson Cos.	9.65	.55	.25		
Zone 14 - Adams, Clark, Forest, Langlade, Lincoln, Marathon, Menominee, Oneida, Portage, Price, Taylor, Vilas and Wood Counties	8.80	.45	.25		
CARPENTERS & PILEDRIVERMEN:					
Zone 1 - Ashland County					
Carpenters	7.94	.30	.25	.15	
Piledrivermen	8.14	.30	.25	.15	
Zone 2 - Barron, Burnette, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Pepin, Pierce, Polk, Rusk, St. Croix, Sawyer & Taylor Counties					

DECISION NO. WI77-2049

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS (CONT'D)					
Zone 2 (Cont'd)					
Carpenters	$ 9.20	.30	.30		.03
Piledrivermen	9.60	.30	.30		.03
Zone 3 - Brown, Calumet, Door Pond Du Lac, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Menominee, Oconto, Outagamie, Shawano, Waupaca & Waushara & Winnbago Cos.					
Carpenters	8.82	.30	.40		.03
Piledrivermen	9.22	.30	.40		.03
Zone 4 - Green, Jefferson & Rock Counties					
Carpenters	9.86	.30	.40		.04
Piledrivermen	10.01	.30	.40		.04
Zone 5 - Kenosha County					
Carpenters	9.95	.40	.50		.03
Piledrivermen	10.03	.40	.50		.03
Zone 6 - Jackson, La Crosse, Monroe, Trempealeau & Vernon Counties					
Carpenters	8.82	.30	.40		.03
Piledrivermen	9.22	.30	.40		.03
Zone 7 - Adams, Columbia, Crawford, Dane, Dodge, Grant, Iowa, Juneau, La Fayette, Richland & Sauk Counties					
Carpenters	9.37	.30	.40		.03
Piledrivermen	9.77	.30	.40		.03
Zone 8 - Florence & Iron Cos.					
Carpenters	8.74	.60	.50		.01
Piledrivermen	8.94	.60	.50		.01
Zone 9 - Milwaukee, Ozaukee, Washington & Waukesha Cos.					
Carpenters	9.76	.80	.70	.51	.06
Piledrivermen	10.21	.80	.70	.51	.06
Zone 10 - Racine County					
Carpenters	9.95	.40	.50		.03
Piledrivermen	10.03	.40	.50		.03

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CARPENTERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 11 - Sheboygan County					
Carpenters	8.85	.40	.30		
Piledrivermen	9.54	.40	.30		
Zone 12 - Bayfield & Douglas Counties					
Carpenters	9.05	.30	.40	.30	
Piledrivermen	9.05	.30	.40	.30	
Zone 13 - Walworth County					
Carpenters	9.86	.30	.40		.04
Piledrivermen	10.03	.30	.40		.04
Zone 14 - Forest, Langlade, Lincoln, Marathon, Oneida Portage, Price, Vilas, & Wood Counties					
Carpenters	8.82	.30	.40		.03
Piledrivermen	9.22	.30	.40		.03
CEMENT MASONS:					
Zone 1 -Ashland, Bayfield, Douglas & Iron Counties	9.65	.30			
Zone 2 - Barron, Burnett, Chippewa, Dunn, Polk, Rusk, St. Croix, Sawyer & Washburn Counties	9.29	.45	.25		.03
Zone 3 - Adams, Clark, Forest, Langlade, Lincoln, Marathon Menominee, Oneida, Portage, Price, Taylor, Vilas & Wood Counties	8.30	.45	.25		.04
Zone 4 - Buffalo, Eau Claire, Pepin & Pierce Counties	9.29	.45	.25		.03
Zone 5 - Brown, Calumet, Door, Florence, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Oconto, Outagamie, Shawano, & Waupaca Counties	8.20	.45	.35		.02
Zone 6 - Crawford, Jackson, Juneau, La Crosse, Monroe, Richland, Trempealeau and Vernon Counties	8.53	.45	.25		
Zone 7 - Waushara & Winnebago Counties	8.20	.45	.35		.02
Zone 8 - Sheboygan County	8.10	.55	.35		.02
Zone 9 - Fond Du Lac County	8.20	.45	.35		.02

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CEMENT MASONS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 10 - Dodge & Jefferson Cos.	$ 8.60	.45	.25		
Zone 11 - Columbia & Sauk Cos.	9.35	.55	.40		
Zone 12 - Milwaukee, Ozaukee, Washington & Waukesha Cos.	9.09	.60	.60	.51	
Zone 13 - Dane, Green, Iowa, Lafayette & Rock Counties	9.35	.45	.40		
Zone 14 - Grant County	8.75				
Zone 15 - Walworth County	9.06	.40	.40	.40	.02
Zone 16 - Racine County	8.33	.40	.50	.50	
Zone 17 - Kenosha County	8.33	.40	.50	.50	
ELECTRICIANS:					
Zone 1 - Calumet, Outagamie, Waupaca, Waushara & Winnebago Counties	10.43	.60	1%		
Zone 2 - Barron, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Pepin, Pierce, Polk Price, Rusk & St. Croix, & Taylor Counties	10.35	4%	1%		
Zone 3 - Brown, Door, Kewaunee, & Shawano Counties	10.26	.52	1%		1/8%
Zone 4 - Florence & Forest Cos.	10.63	.40	1%		.50%
Zone 5 -Kenosha County	11.34	.45	1%	.25	.75%
Zone 6 - Crawford, Grant, Jackson, Juneau, La Crosse, Monroe, Richland, Trempealeau & Vernon Counties	10.40	.55	1%		.50%
Zone 7 - Walworth County	10.20	.45	1%	7%	.50%
Zone 8 - Columbia, Dane, Dodge, Green Lake, Iowa, Marquette, & Sauk Counties	9.95	.74	1%	7%	.75%
Zone 9 - Sheboygan County	9.19	.85	1%+.20	10%	1.25%
Zone 10 - Ashland, Bayfield, Burnett, Douglas, Iron, Sawyer & Washburn Cos.	10.15	4%	1%	11%	3%

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ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 11 - Langlade, Lincoln, Marathon, Menominee, Oneida, & Vilas Counties	$ 9.60	.45	1%	7%	1/8of1%
Zone 12 - Adams, Portage & Wood Counties	9.60	.45	1%	7%	1/8of1%
Zone 13 - Fond Du Lac County	9.19	.85	1%+.20	10%	1.25%
Zone 14 - Green, Jefferson,, Lafayette & Rock Counties	10.20	.45	1%	7%	.50%
Zone 16 - Milwaukee, Ozaukee, Washington & Waukesha Cos.	10.58	.85	1%+.20	10%	.25%
Zone 17 - Marinette & Oconto Counties	10.26	.52	1%		1/8of1%
Zone 18 - Manitowoc County	10.26	.52	1%		1/8of1%
IRONWORKERS:					
Zone 1 - Barron, Buffalo, Chippewa, Clark, Dunn, Eau Claire, Pepin, Pierce, Polk St. Croix & Trempealeau Counties	10.35	.55	.55		.02
Zone 2 - Ashland, Bayfield, Burnett, Douglas, Forest, Iron, Lincoln, Oneida, Price, Rusk, Sawyer, Taylor, Vilas & Washburn Counties	10.60	.30	.55		.02
Zone 3 - Adams, Columbia, Crawford, Dane, Dodge, Grant, Green, green Lake, Iowa, Jackson, Jefferson, Juneau, LaCrosse, Lafayette, Langlade, Marquette, Marathon, Menominee, Monroe, Portage, Richland, Sauk, Shawano, Waupaca, Vernon, Waushara, & Wood Counties	10.22	.50	.25		.03
Zone 4 - Borwn, Calumet, Door, Florence, Fond Du Lac, Kenosha, Kewaunee, Manitowoc, Marinette, Milwaukee, Oconto, Outagamie, Ozaukee, Racine, Sheboygan, Walworth, Washington & Waukesha & Winnebago Cos.	10.06	.95	.70	1.15	.15

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IRONWORKERS: (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 5 - Rock County	11.875	.65	.375		.05
LINE CONSTRUCTION:					
Linemen	9.37	.35	1%		.5%
Cable Splicers	10.23	.35	1%		.5%
Equipment Operator	7.77	.35	1%		.5%
Truck Drivers with boom or Digger Tractor or 5th wheel	6.46	.35	1%		.5%
Truck Drivers	6.16	.35	1%		.5%
Groundman	5.88	.35	1%		.5%
Groundman 1st 6 months	5.09	.35	1%		.5%
PAINTERS:					
Zone 1 - Forest, Langlade, Lincoln, Marathon, Menominee, Oneida, Price & Taylor Cos.					
Brush	8.50				
Spray	9.00				
Zone 2 - Barron, Buffalo, Burnett, Chippewa, Dunn, Eau Claire, Pepin, Pierce, Polk, Rusk, St. Croix, Sawyer, Trempealeau, & Washburn Cos.					
Brush	8.15				
Spray	8.65				
Steel	8.40				
Zone 3 - Brown, Door, Kewaunee, & Oconto Counties					
Brush	7.95	.60			
Spray	8.35	.60			
Zone 4 - Florence County					
Brush	7.45			.75	
Spray	8.20			.75	
Zone 5 - Kenosha County					
Brush	8.575	.40	.40		
Steel	8.725	.40	.40		
Spray	9.325	.40	.40		

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PAINTERS: (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 6 - Adams, Clark, Crawford, Jackson, Juneau, La Crosse, Monroe, Portage, Vernon & Wood Counties					
Brush	7.78		.45		
Steel	8.05		.45		
Spray	8.47		.45		
Zone 7 - Walworth County					
Brush	8.575	.40	.40		
Spray	9.325	.40	.40		
Zone 8 - Columbiana, Dane, Dodge, Grant, Green, Iowa, Lafayette Richland, Rock & Sauk Counties					
Brush	8.79	.60	.30	.30	.01
Spray	9.54	.60	.30	.30	.01
Zone 9 - Calumet & Manitowoc Counties					
Brush	7.55				
Spray	8.05				
Zone 10 - Marinette County					
Brush	5.90			.40	
Spray	6.40			.40	
Zone 11 - Jefferson, Milwaukee, Ozaukee, Washington & Waukesha Counties					
Brush	9.10	.78	.70	.50	.02
Steel & Spray	9.45	.78	.70	.50	.02
Zone 12 - Fond Du Lac, Green Lake, Marquette, Outagamie, Shawano, Waushara, Waupaca, & Winnebago Counties					
Brush & Steel	8.50	.30	.10		.03
Spray	9.00	.30	.10		.03
Zone 13 - Racine county					
Brush	8.65	.40	.40		
Steel	8.80	.40	.40		
Spray	9.40	.40	.40		
Zone 14 - Sheboygan County					
Brush & Steel	6.35	.20	.30	.20+.10	
Spray	6.75	.20	.30	.20+.10	
Zone 15 - Ashland, Bayfield, Douglas, Iron & Vilas Counties					
Brush & Steel	9.00				
Spray	9.50				

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LABORERS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 1 - Milwaukee, Ozaukee, Washington and Waukesha Counties					
Group 1	$ 7.86	.65	.70	.25	.02
Group 2	7.96	.65	.70	.25	.02
Group 3	8.01	.65	.70	.25	.02
Group 4	8.06	.65	.70	.25	.02
Group 5	8.11	.65	.70	.25	.02
Group 6	8.16	.65	.70	.25	.02
Group 7	8.51	.65	.70	.25	.02
Zone 2 - Racine County					
Group 1	7.86	.40	.40	.20	.02
Group 2	7.96	.40	.40	.20	.02
Group 3	8.01	.40	.40	.20	.02
Group 4	8.06	.40	.40	.20	.02
Group 5	8.11	.40	.40	.20	.02
Group 6	8.16	.40	.40	.20	.02
Group 7	8.51	.40	.40	.20	.02
Zone 3 - Kenosha County					
Group 1	7.86	.40	.40	.25	.02
Group 2	7.96	.40	.40	.25	.02
Group 3	8.01	.40	.40	.25	.02
Group 4	8.06	.40	.40	.25	.02
Group 5	8.11	.40	.40	.25	.02
Group 6	8.16	.40	.40	.25	.02
Group 7	8.51	.40	.40	.25	.02
Zone 4 - Dane County					
Group 1	7.61	.30	.30		.02
Group 2	7.66	.30	.30		.02
Group 3	7.71	.30	.30		.02
Group 4	7.76	.30	.30		.02
Group 5	7.81	.30	.30		.02
Zone 5 - Remainder of State					
Group 1	7.33	.30	.30		.02
Group 2	7.38	.30	.30		.02
Group 3	7.43	.30	.30		.02
Group 4	7.48	.30	.30		.02
Group 5	7.53	.30	.30		.02

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LABORERS (CONT'D)

Classifications for ZONES 1, 2 and 3 RESPECTIVELY

Group 1: Bituminous workers (shoveler, loader, utility man), Demolition and wrecking laborer, Guard rail builder, Reinforcing steel setter (pavement), Stone handler, Tree trimmer, Landscaper, Multiplate culvert assembler, Conduit layer, Unskilled laborer

Group 2: Bituminous worker (dumper, ironer, smoother, tamper), Batch truck dumper, Cement handler, Concrete handler

Group 3: Chain Saw Operator, demolition burning torch laborer, Joint sawyer and filler (pavement), Vibrator or tamper operator (mechanical, hand operated)

Group 4: Air tool operator (hand operated)

Group 5: Form setter (curb, walk & pavement), Strike offman

Group 6: Bituminous Worker (raker and luteman)

Group 7: Powderman, blaster

LABORERS (CONT'D)

Classifications for ZONES 4 and 5 RESPECTIVELY

Group 1: Bituminous Workers (dumper, ironer, smoother,tamper, shoveler, loader, utility man), Strike off man, Joint sawer or filler (pavement), Concrete handler, demolition & wrecking laborer, Guard rail builder, Reinforcing steel setter (pavement); Stone handler,Landscaper, Multiplate culvert assembler, Conduit layer, Unskilled labor

Group 2: Form setter (curb,walk, & pavement), Tree trimmer

Group 3: Air tool operator, vibrator or tamper operator, Batch truck dumper, Cement handler

Group 4: Bituminous worker (raker,luteman), Chain saw operator, Demolition burning torch laborer

Group 5: Powderman, blaster

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.77	.70	.65		.10
Group 2	9.51	.70	.65		.10
Group 3	9.42	.70	.65		.10
Group 4	9.34	.70	.65		.10
Group 5	9.26	.70	.65		.10
Group 6	9.22	.70	.65		.10
Group 7	9.13	.70	.65		.10
Group 8	9.01	.70	.65		.10
TRUCK DRIVERS					
ZONE 1 - Milwaukee, Ozaukee, Washington & Waukesha Counties					
Group 1	7.89	a24.50	a25.00	.35	
Group 2	8.04	a24.50	a25.00	.35	
Zone 2 - Kenosha & Racine Cos.					
Group 1	7.89	b110.04	a25.00	.35	
Group 2	8.04	b110.04	a25.00	.35	
Zone 3 - Remainder of State					
Group 1	7.89	b106.16	a25.00	.35	
Group 2	8.04	b106.16	a25.00	.35	

FOOTNOTE:
a. Per week peremployee on payroll 30 days or longer

b. Per month per employee on payroll 30 days or longer.

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POWER EQUIPMENT OPERATORS

CLASSIFICATIONS:

Group 1: Bituminous paver or plant, Concrete breaker (truck mounted heavy), Crane, Derrick, dragline, Dredge, Piledriver, Power shovel, Material hoist, Mixer or paver 21 cu. ft. or over, Roller over 5 ton, Self-propelled stabilizing mixer, Trenching machine, Tractor (side boom, heavy), Concrete pavement spreader (heavy duty) Rubber tires, Hydraulic back hoe, Asphalt Plane engineer; Automatic slip form concrete paver, Automatic concrete subgrader, Batch mixer, portable, Caisson rigs, Central Mixer concrete, Dredge engineer, Concrete batch plantengineer, Central mix plant concrete, Percussion or rotary drill machine, Grader or motor patrol, Loading machine (conveyor), Mechanic or welder (heavy duty equipment), Tractor (scraper, dozer, push, loader), Tugger, End Loader, Asphalt Heater and planer, Boatman, Bump cutter and grooving machine, Shoulder widener, Winches and "A" frames, Tube finisher

Group 2: Concrete mixer less than 21 cu. ft., Concrete pump, sTeel roller, 5 tons or less

Group 3: Screed (bituminous paver), Shoulderingmachine, Self-propelled chip spreader

Group 4: Concrete breaker and Tamper (light), Concrete spreader, Finishing machine, Mechanical float, Curing machine, Power subgrader, Joint sawer (multiple blade), Launch, Roller (pneumatic tired) Self-propelled tractor (mounted or towed compactors and light equipment), Light rubber tired tractor - end loader, fork-lift, Belting machine, Burlap machine, Jeep digger, Mulcher, Texturing machine

Group 5: Fireman, Evironmental burner

Group 6: Air compressor, Drilling or boring machine (mechanical heavy), Greaser (heavy equipemnt) Lead-man, Tank car heaters, Stump chipper, Curb machine, Concrete proportioning plant, Generators, Mud Jacks

Group 7: Crusher or screening plant, Automatic belt conveyor and surge bin, pneumatic tired roller farm tractor towed, Pug mill

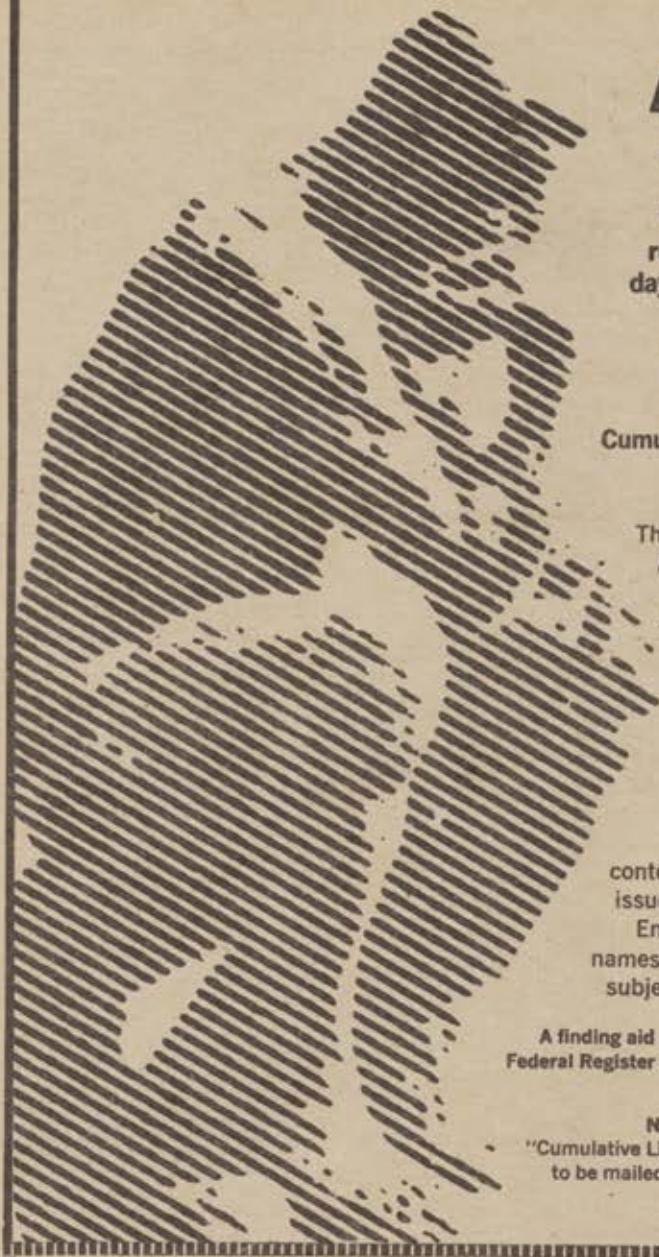
Group 8: Oiler, Pump over 3" Surge bin, Drilling machine helper

TRUCK DRIVERS

Group 1: Truck drivers, 2 Axle - Mechanics helper, truck

Group 2: TRuck Driver, 3 or more axle trucks - euclid or Dumpster type hauling units - Mechanic, truck

[FR Doc.77-10814 Filed 4-14-77;8:45 am]



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